

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 54567**

Petitioner:

**RICHARD G. FROHLICK,**

v.

Respondent:

**DENVER COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on June 15, 2011, MaryKay Kelley and Sondra W. Mercier presiding. Petitioner was represented by Oren "Von" Limbaugh, Esq. Respondent was represented by Michelle Bush, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**1575-1595 S. Acoma Street, Denver, Colorado  
Denver County Schedule No. 05226-02-015-000**

The subject includes multiple smaller industrial buildings with approximately 9,900-square feet total. The buildings were constructed in 1953 and were in fair condition on the date of value. The buildings were occupied by the Frohlick Crane Company, and were used as warehouse, mechanic shop and office. The buildings are located on a 52,277-square foot site that is zoned I-1, industrial.

Petitioner is requesting an actual value of \$320,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$695,000.00 for the subject property for tax year 2009 but is recommending a reduction to \$520,100.00.

Petitioner presented the following indicators of value:

Cost: Not applied  
Market: \$325,000.00

Income: \$300,000.00

Petitioner did not present a cost approach, citing the age of the buildings and associated difficulty in determining depreciation.

Petitioner's witness, Mr. Robert D. Decker, MAI of Decker Associates, Inc., presented three comparable sales that occurred during the base period, ranging in sale price from \$360,000.00 to \$469,300.00 and in size from 9,826 to 11,940 square feet. The sales indicated a range of \$32.34 to \$39.31 per square foot. After adjustments were made, the sales ranged from \$31.45 to \$32.75 per square foot. Mr. Decker concluded to a value of \$33.00 per square foot for the subject for a total value of \$325,000.00, rounded.

Petitioner's witness, Mr. Decker, presented an income approach to derive a value of \$300,000.00 for the subject property. Mr. Decker concluded to a rental rate of \$3.00 per square foot net of expenses, vacancy of 5% and owner's expenses of approximately 2%, resulting in a net operating income of \$26,700.00. Mr. Decker applied a capitalization rate of 9%, to conclude to a value of \$300,000.00, rounded.

Respondent presented the following indicators of value:

Cost:	\$741,100.00
Market:	\$520,100.00
Income:	\$551,100.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$741,100.00. Respondent's witness, Mr. Donald P. Delmendo, Real Property Appraiser with the City and County of Denver Assessor's Office, presented five land sales and concluded to a value of \$9.00 per square foot for a total site value of \$470,500, rounded. The improvements were valued at \$270,600.00 resulting in a total value of \$741,100.00 for the subject.

Respondent's witness, Mr. Delmendo, presented three comparable sales ranging in sale price from \$515,000.00 to \$850,000.00 and in size from 7,300 to 14,030 square feet. The sales indicated a range of \$60.58 to \$75.97 per square foot. After adjustments were made, the sales ranged from \$60.58 to \$83.36 per square foot.

Respondent used the income approach to derive a value of \$551,100.00 for the subject property. Mr. Delmendo concluded to a rental rate of \$4.50 per square foot net of expenses, vacancy of 7% and operating expenses of 7% resulting in net income of \$38,578.00. Mr. Delmendo applied a capitalization rate of 7% to conclude to a value of \$551,100.00 rounded.

Respondent assigned a value of \$695,000.00 for the subject property for tax year 2009 but is recommending a reduction to \$520,100.00.

After consideration of the cost, market and income approaches to value, the Board finds that the market and income approaches provide the best indication of the value of the subject. Because the age and condition of the subject makes the estimation of depreciation imprecise, limited consideration can be given to the cost approach.

Respondent's building sales were found to be superior to the subject in condition and/or location, although adjustments applied by Mr. Delmendo are considered insufficient. Respondent presented insufficient probative evidence to support the rental rate of \$4.50 or the low overall capitalization rate of 7% applied in the income approach.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was incorrect. While Respondent called the Board's attention to the unreliable nature of Petitioner's comparable sales, sufficient market evidence was presented to make Petitioner's income approach reliable. The Board concludes that the 2009 actual value of the subject property should be reduced to Petitioner's requested value of \$320,000.00, which was supported by Petitioner's income approach.

### **ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$320,000.00.

The Denver County Assessor is directed to change his/her records accordingly.

### **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may

petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 19th day of January, 2012.



**BOARD OF ASSESSMENT APPEALS**

*MaryKay Kelley*

\_\_\_\_\_  
MaryKay Kelley

*Sondra W Mercier*

\_\_\_\_\_  
Sondra W. Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Milla Crichton*  
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Milla Crichton