

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PONCHA MINI STORAGE & RENTALS, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 54660</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 27, 2010, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Jennifer A. Davis, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2007 and 2008.

Subject property is described as follows:

**10016 Highway 50, Poncha Springs, Colorado
Chaffee County Schedule Nos. R380510100001 & R380510200186 (2008);
R380510100103 (2007)**

The subject is a mini-storage facility that was initially constructed in 1960 with several expansions and additions. For tax year 2008, the subject property consisted of a 47,525 square foot mini storage facility with office on a 4.82 acre site. Building 7C was expanded and Building 8 was added in 2007 for new square footage of 13,760 compared to 2007. The site size for 2008 was 10,758 square feet larger than shown for 2007 as a result of a lot line vacation and re-plat for Poncha Mini Storage recorded on April 13, 2007 at Reception No. 365948.

Tax Year 2008

Petitioner is requesting an actual value of \$939,000.00 for the subject property for tax year 2008. Respondent assigned a value of \$1,366,574.00 for the subject property for tax year 2008.

Petitioner presented the following indicators of value:

Cost:	\$1,007,000.00
Market:	Not Applied
Income:	\$872,000.00

Petitioner's witness, Mr. Ronald "R.C." Sandstrom, relied on the Assessor's land value for 2007 of \$1.22 per square foot and applied it to the increased site size of 209,425 square feet to indicate a land value of \$255,500.00. Mr. Sandstrom calculated a depreciated replacement cost for each building to conclude to a total value of \$1,007,000.00 using the cost approach.

Petitioner presented an income approach to derive a value of \$872,000.00 for the subject property. Mr. Sandstrom based the income approach on an analysis of actual income and expense information for the subject from 2005 and 2006, increased by 20% to reflect an increase in size for tax year 2008. Actual income and expense data for 2005 and 2006 indicated vacancy of 7% to 17%, discounts of 5%, and expenses of 31% to 34%. Petitioner concluded to a net income of \$91,590.00. Petitioner's capitalization rate was based on a band-of-investment rate of 9.0%, weighted by an effective tax rate of 1.36%, rounded to 10.5%.

Petitioner contends that the Poncha Springs location is inferior compared to other facilities located in Chaffee County, which was not adequately reflected in the capitalization rate selected by Respondent in the income approach. Petitioner contends that Respondent overstated the depreciated replacement cost new of the subject buildings in the cost approach. Petitioner concluded to a value of \$939,500.00 based on the average indicated by the cost and income approaches.

Respondent presented the following indicators of value:

Cost:	\$1,286,900.00
Market:	\$2,555,900.00
Income:	\$2,245,400.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,286,900.00. Respondent concluded to a land value of \$368,800.00, which included excess land valued at \$15,075.00.

Respondent's witness, Mr. Richard Roberts of the Chaffee County Assessor's Office, presented three comparable sales ranging in sale price from \$200,000.00 to \$1,600,000.00 and in size from 30 to 236 units. The sales indicated a range in price of \$40.38 to \$57.03 per square foot prior to adjustment. After adjustments were made, the sales ranged from \$53.88 to \$62.52 per square foot. Respondent concluded to a value of \$57.53 per square foot for the subject. With the addition of excess land valued at \$15,075.00, Respondent concluded to a value of \$2,555,900.00 based on the market approach.

Mr. Roberts presented rental information for three properties that indicated market rent ranging from \$4.08 to \$7.13 per square foot. Mr. Roberts concluded to a rental rate towards the

middle of the range at \$5.00 per square foot. Vacancy and collection loss of 15% was deducted along with expenses without taxes of 14.18% to conclude to a net operating income of \$156,125.00.

Mr. Roberts provided capitalization rates for six commercial properties and concluded to a tax loaded capitalization rate for the subject of 7.0%. Mr. Roberts calculated a value of \$2,230,357.00, adding \$15,075.00 for excess land to conclude to a total value of \$2,245,400.00, rounded, based on the income approach.

Mr. Roberts concluded to an opinion of value of \$2,000,000.00 for the subject. Respondent assigned an actual value of \$1,366,574.00 to the subject property for tax year 2008.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2008. As the subject is an income producing property, the Board finds the income approach to be the most reliable in the valuation of a mini-storage facility, with support from the market approach. The cost approach is given the least weight in the analysis of the subject as an income producing property. Respondent relied on market data in the income approach to determine market rent, expenses and capitalization rate. Even applying the subject's actual potential gross income of \$199,080.00 to Respondent's analysis results in a value produced by the Board that exceeds the actual value placed on the subject for tax year 2008.

Petitioner presented insufficient evidence to support a lower value for the subject. Petitioner understated income by using 2005 and 2006 potential gross income and increasing it by 20%. Petitioner's documentation showed a potential gross income of \$199,080.00, an amount that is 47% higher than the potential income for 2005 and 2006 resulting from the additional units added in 2007. Petitioner provided insufficient market evidence to support the vacancy rate, expenses or capitalization rate used.

Tax year 2007

The Board was convinced that despite a difference in the combined site size and different schedule numbers between tax years 2007 and 2008, the subject was operating as the same economic unit for both tax years. The Board's understanding from Respondent's Exhibit B is that the subject was valued on schedule number 3805101-00-103, which was a combined value for schedule numbers 3805101-00-193, 3805102-00-128, 3805102-00-183 and 3805101-00-103. The actual value assigned to schedule number 3805101-00-103 was \$961,431.00 for tax year 2007.

Based on evidence and testimony, the Board calculates the value of the subject for tax year 2007 using Petitioner's potential gross income of \$134,880.00, with Respondent's market indications for vacancy (15%), expenses (14.18%), and overall rate (7.0%) to conclude to a value of \$1,405,584.00 for tax year 2007. The value indicated by this analysis exceeds the actual value assigned to schedule number 3805101-00-103 of \$961,431.00 for tax year 2007.

ORDER:

The petition is denied.

APPEAL:

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 13 day of December 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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.

Amy Bruins
Amy Bruins

