BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **PARK RIDGE MEADOWS LLC,** v. Respondent: **DOUGLAS COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 55125 & 57252**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 20, 2011, Debra A. Baumbach presiding and Sondra W. Mercier with Gregg Near reviewing. Petitioner was represented by Richard G. Olona Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2009 and 2010 actual value of the subject property.

Subject property is described as follows:

10375 Park Meadows Dr. Lone Tree Colorado
Douglas County Schedule No. R0435149

The subject property consists of a six-story, class "A" multi-tenant office building constructed in 2002. There are 192,359 square feet of net rentable area, situated on a 13.66-acre parcel. The building has an "Energy Star" label by the EPA and has both covered and surface parking. The property is located next to the Marriott South Hotel, west of I-25 and Lincoln Avenue.

Petitioner is requesting an actual value of $21,700,000.00 for the subject property for tax years 2009 and 2010. Respondent assigned an actual value of $36,615,812.00 for the subject property for tax years 2009 and 2010.

Petitioner presented the following indicators of value:

Market: $26,864,114.00
Cost: No value developed
Income: $21,692, 569.00

Estimated Value by Equity: $21,723,276.00

In applying the market approach, Petitioner's witness, Mr. Todd Stevens, relied on four comparable sales from the appropriate base period and one sale from the extended base period. Sales one, two and four are located in Arapahoe County, and sale three is located in Douglas County and is directly next door to the subject property. The comparable sales ranged in sales price from $109.75 to $180.56 per square foot and in size from 85,073 to 166,708 square feet.

Adjustments were made for location, age, economic and physical characteristics, and size differences. After adjustments, the sales ranged from $131.70 to $153.22 per square foot. Mr. Stevens testified he concluded to a value of $140.00 per square foot with the greatest reliance placed on sale three located directly next to the subject.

Mr. Stevens utilized an income approach to derive a value of $21,692,569.00 for the subject property. Mr. Stevens concluded to a rental rate of $13.00 per square foot and CAM expense of $9.50 per square foot based on seven leases within the immediate area. Lease No. 1 was a sublease in the subject property consisting of 5,669 square feet with a rental rate of $13.00 per square foot on a triple net basis. There were three leases on a triple net basis and four leases on a gross basis.

The parking income was taken from the subject's income and expense reports. Mr. Stevens deducted 10% for vacancy and collection loss and 5% for management fee. Mr. Stevens deducted another 10% for CAM less property tax, operating, maintenance and reserves. The capitalization rate of 8% plus a tax load of 3.48% was applied based on an extrapolation of four properties in the market area and Burbach & Associates Inc.'s suburban/low rise offices and DBD/Class "A" office buildings. There was also a 2,882 square foot area never finished or rented out. An expense rate for tenant improvements of $50.00 per square foot was deducted from the capitalized value.

Mr. Stevens contends Respondent's value analysis is flawed. According to Mr. Stevens, the comparable property located next door to the subject and sold during the base period, is the most similar to the subject property. Mr. Stevens argues that Respondent has valued the subject property at a higher level than the property next door and other comparable properties in the area. Mr. Stevens presented assigned values of six office building properties in the area. The values ranged from $8,452,233.00 to $22,656,500.00 per building and from $110.61 to 137.66 per square foot. No adjustments were made and Mr. Stevens correlated a value of $21,602,900.00 at $110.00 per square foot based on the value of the property located next door to the subject.

Mr. Stevens contends that equalization is a valid argument based on equity and uniformity as outlined in Section 39-8-108.5, C.R.S. Mr. Stevens presented assigned values of other properties in the area and argued that the subject property should be valued more in line with the properties next door.

Petitioner is requesting a 2009 and 2010 actual value of $21,700,000.00 for the subject property.

Respondent presented the following indicators of value:

Market: $36,725,000.00
Cost: $37,147,000.00
Income: $37,000,000.00
Final Value: $37,000,000.00

Respondent's witness, Mr. Mike Shafer, a Certified General Appraiser, presented an indicated value of $37,000.00.00 based on all three approaches to value.

In applying the market approach, Mr. Shafer presented six comparable sales ranging in sales price from $151.00 to $189.00 per square foot and in size from73,991 to 321,491 square feet. Percentage adjustments were made for all differences in characteristics for an indicated range of $187.00 to $208.00 per square foot. All of the sales are considered to be class "A" buildings, have "Energy Star" labels and are arms-length transactions. Mr. Shafer concluded to a value of $201.00 per square foot equal to a market value of $36,725,000.00.

Mr. Shafer presented a cost approach to derive a market-adjusted cost value for the subject property of $37,147,000.00. The land component was based on three commercial vacant land sales. Adjustments were made for access, visibility, traffic and size. After adjustments, the indicated value per square foot ranged from $14.90 to $34.93 for a total land value of $8,925,000.00. Mr. Shafer used a state approved cost service to determine a cost new less depreciation for the building of $28,222,000.00.

Mr. Shafer used an income approach to derive a value of $37,000,000.00 for the subject property. Mr. Shafer calculated a rental rate of $28.00 per square foot based on one actual lease of the building next door and on asking rental rates in the area. For additional support, Mr. Shafer presented a lease comparison analysis of class "B" buildings. Mr. Shafer added additional parking income of $56,400.00 and deducted vacancy and collection loss of 5%. Owner's expenses of 25% were also deducted. The capitalization rate for the net operating income estimated at 10.47%. Mr. Shafer's concluded capitalization rate was based on an analysis of the Integra Real Estate Investment Survey.

Respondent assigned an actual value of $36,615,812.00 to the subject property for tax years 2009 and 2010.

Petitioner presented sufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax years 2009 and 2010.

The Board concluded that because the subject is an income-producing property, the income approach is the most reliable methodology with support from the market approach to value the subject. The Board reviewed all the comparable sales and leases presented by both parties and concluded the sale and an actual lease of the property next door to the subject was the most supportable data upon which to rely. Petitioner presented actual leases with one sub-lease located within the subject property and Respondent only used one actual lease of the property next door and relied on asking rates for other properties.

Both parties overstated expenses which would be included in triple net leases paid by the tenant. Respondent's rental rate of $28.00 was not supported by the data presented. Respondent's graphs indicated rental rates in the area that do not support Respondent's concluded rate and some of Respondent's adjustments to the lease comparables do not appear to be supported by the market data. Additionally, the Board was not convinced the parties supported some of their adjustments.

Therefore, the Board concluded to a rental rate of $23.00 per square foot on a full service basis. The Board applied a vacancy rate of 5% and reserves for replacements of 3%. No management fee or maintenance fee was applied as it is included in the CAM. CAM of $869.947.00 was deducted as expenses (CAM less property taxes) to determine net operating income of $3,207,005.83. A capitalization rate of 11% including the tax load was applied for a value of $29,154,598.00. With the subject's 2,882 square feet of unfinished area and a deduction of $50.00 per square foot from the capitalized value, a total value of $29,010,000.00 (rounded) was derived.

Petitioner also used an equalization argument, comparing assigned values to the valuation of the subject property. The Board may consider an equalization argument if evidence and testimony can show the assigned values were derived from the application of the appropriate approaches to value and that each property was valued correctly. There was insufficient evidence and testimony presented to consider an equalization argument and therefore no consideration was given to Petitioner's equalization argument.

The Board concluded the 2009 and 2010 actual value of the subject property should be reduced to $29,010,000.00 (rounded).

ORDER:

Respondent is ordered to reduce the 2009 and 2010 value of the subject property to $29,010,000.00.

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 21st day of November, 2011.

BOARD OF ASSESSMENT APPEALS

Gregg Near

Sondra W. Mercier

Debra A. Baumbach

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

Milla Crichton