

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MORLEY COMPANIES FAMILY INVESTMENT LLLP,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>EL PASO COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 55654</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 7, 2011, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by James Morley, manager of Morley Companies Family Investment LLLP. Respondent was represented by Andrew C. Gorgey, Esq. Petitioner is protesting the 2010 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**20 Boulder Crescent Street, Colorado Springs, Colorado  
El Paso County Schedule No. 64182-03-006**

The subject is a two-story, 9,977 square foot masonry and stucco office building located in the City of Colorado Springs. The multi-tenant building was constructed in 1960, is partially owner-occupied, has general office finish, and has a leasable area of approximately 9,000 square feet. Lot size is 24,145 square feet, all utilities are publically provided, and surrounding uses consist of commercial and multi-family uses. There is both on-site parking and street parking supporting the subject. The building was considered to be in average condition as of the date of value.

Petitioner is requesting an actual value of \$500,000.00 to \$600,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$1,006,239.00 for the subject property for tax year 2010.

Petitioner based its estimate of value on the capitalization of its opinion of projected net income for the subject. Petitioner's model used gross income calculated at \$10.00 per square foot minus expenses of \$3.25 per square foot to arrive at net income of \$6.75 per square foot. This income was converted to value using a rate range of 10% to 11% resulting in an indication of value of \$500,000.00 to \$600,000.00 for the subject. In addition to the income model, Petitioner argued that the building had excessively high vacancy, suffered from deferred maintenance, and the neighborhood had declined. In addition, Petitioner argued that the sale and rent comparables used by Respondent were significantly superior to the subject. Petitioner did not offer any exhibits into evidence.

Respondent presented the following indicators of value:

Cost:	\$623,264.00
Market:	\$938,636.00
Income:	\$1,113,090.00

Based primarily on the market and income approach, Respondent presented an indicated value of \$1,006,239.00 for the subject property.

Respondent's witness, Ms. Tina L. Flutcher, presented a cost approach reflecting a land value of \$7.35 per square foot or \$177,466.00 for the subject lot. Replacement costs were based on the Marshall Valuation Service and resulted in an estimated replacement cost of \$445,798.00, including site improvements. Respondent's witness concluded to a value of \$623,264.00 or \$62.47 per square foot for the subject via the cost approach.

Respondent's witness presented a market approach including three sales of office buildings ranging in sales price from \$601,500.00 to \$1,500,000.00 and in size from 6,133 to 14,868 square feet. After adjustments were made, the sales ranged from \$88.91 to \$101.02 per square foot. Respondent concluded an adjusted value of \$94.08 or \$938,636.00 via the market approach.

Respondent's witness also presented an income approach resulting in a value of \$1,113,090.00 for the subject. Two rent comparables were included in the analysis. Respondent's income model used an indication of market rent of \$14.60 per square foot. A 10.10% vacancy and collection loss and a 15.0% expense factor were used, resulting in a net operating income of \$1,111,309.00. This net income was then capitalized at a 10.0% overall rate.

Respondent argued that the market value for the subject was best represented by the market and income approaches and that the sale and rent comparables were indicative of the market.

Respondent assigned an actual value of \$1,006,239.00 to the subject property for tax year 2010.

Respondent presented sufficient probative evidence and testimony to show that the tax year 2010 valuation of the subject property was correct.

Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the market and income approaches are the most supportable method of establishing value for the subject. The Board finds that the comparable sales used in Respondent's market and income approaches are reasonable and therefore most accurately reflect the market value for the subject.

### **ORDER:**

The petition is denied.

### **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).

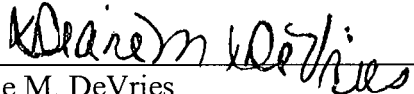
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

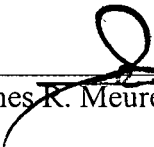
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

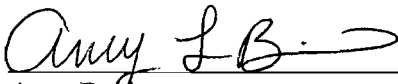
DATED and MAILED this 11 day of February 2011.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
Diane M. DeVries

  
\_\_\_\_\_  
James K. Meurer

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

  
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Amy Bruins

