

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>UNIVERSITY & HIGHLANDS RANCH ET AL,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55127 & 57074</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 9, 2010, Sondra W. Mercier and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark Esq. Petitioner is protesting the actual value of the subject property for tax years 2007 and 2008.

Dockets 55127 and 57074 were consolidated.

Petitioner and Respondent stipulated to the exhibits and witnesses to be presented.

Subject property is described as follows:

**9567 South University Boulevard, Highlands Ranch, Colorado
Douglas County Schedule No. R0416190**

Subject is a neighborhood shopping center containing 38,362 square feet on 5.333 acres of land. The building was constructed in 1999 and contains 14 units ranging from 1,400 square feet to 8,800 square feet. The subject shares a signalized intersection with a King Soopers store, which anchors the shopping center to the north.

Petitioner contends Respondent's comparable sales and comparable rents are unreliable, and Respondent improperly applied lease rates that were renewals rather than rely upon the market rates at the time. Petitioner is requesting an actual value of \$7,000,000.00 for the subject property for tax year 2008 and 2009.

Respondent contends this is a center with a good anchor tenant, the comparable sales used in the analysis are all proximate, and the lease rates relied upon are all within Highlands Ranch. Respondent assigned a value of \$12,692,588.00 for the subject property for tax year 2007 and 2008 but is recommending a reduction to \$11,170,000.00.

Petitioner presented the following indicators of value:

Market:	\$7,096,970.00
Cost:	Not considered
Income:	\$6,909,593.00

Petitioner's witness, Mr. Todd Stevens, Registered Appraiser and Licensed Broker, presented three comparable sales of neighborhood centers ranging in sale price from \$4,500,000.00 to \$28,000,000.00 and in size from 26,483 to 88,420 square feet. After adjustments were made, the sales ranged from \$176.72 to \$212.17 per square foot in unit value. Mr. Stevens reconciled to a unit value of \$185.00 per square foot and an indicated value via the market approach of \$7,096,970.00.

Mr. Stevens stated there are several different retail markets in the Highland's Ranch area and the subject is not actually anchored by a King Soopers but is across the street. The sales relied upon within his report were anchored by a Whole Foods Market (Sale 1), an Office Depot (Sale 2), and a Sprouts (Sale 3). Sale 1 was adjusted downward by 25% for superior economic characteristics and an additional 8% was deducted for age and physical characteristics. Sale 2 was adjusted upward a total of 22% for location, age and physical characteristics. Sale 3 was adjusted only 4% for age.

Sale 1 included several pad sites including a bank and restaurant. Mr. Stevens described these as high end stores. Sale 2 is located in Lakewood within Jefferson County, and Sale 3 is located in the City of Parker.

Petitioner presented an income approach to derive a value of \$6,909,593.00 for the subject property. Petitioner considered seven leases within the market and related asking-leases for two nearby centers. Mr. Stevens concluded to a rental rate of \$18.00 per square foot. An adjustment of \$13.75 per square foot is added for Common Area Management (CAM). Deductions of 5% for vacancy and 5% for management are taken from this projected gross. An additional \$277,643.00, for CAM (less property taxes and management fee), and 7% for "operating, maintenance and leasing reserves" are taken. The annual net income is estimated to be \$744,670.00. Mr. Stevens concludes to an overall capitalization rate of 10.78% based upon four comparable sales suggesting a capitalization rate of 8% to which is added an additional 2.78% for property taxes. The indicated value by this approach is \$6,909,593.00.

Respondent presented the following indicators of value:

Market:	\$11,441,000.00
Cost:	Not considered
Income:	\$11,170,000.00

Respondent's witness, Mr. Mike Shafer, Certified General Appraiser of the Douglas County Assessor's Office, presented three comparable sales of neighborhood centers ranging in sale price from \$5,500,000.00 to \$10,780,000.00 and in size from 13,860 to 29,938 square feet. After adjustments were made, the sales ranged from \$289.00 to \$363.00 per square foot in unit value. Mr. Shafer reconciled to a unit value of \$289.00 per square foot and an indicated value via the market approach of \$11,441,000.00.

Respondent indicated the subject is located in a high traffic location with numerous signalized intersections and a wide variety of retailers. The comparables considered were the most reliable because they are all located within Highlands Ranch. One of the sales was anchored by a King Soopers. Sale 1 was adjusted downward a total of 17% for better design/construction and age; it was adjusted upward 15% as it lacked an anchor tenant. Sale 2 was adjusted downward a total of 11% for better design/construction and age. Sale 3 was adjusted downward a total of 42%, with significant adjustments of 10% for location/access and 15% each for better design/construction and for location across from Park Meadows.

Respondent used the income approach to derive a value of \$11,170,000.00 for the subject property.

Respondent considered three leases within the market. The three rent comparables ranged from \$19.67 to \$29.00 per square foot on a NNN basis. Mr. Shafer concluded to a range of market rates based on the sizes of individual units. The average rental rate concluded was \$23.40 per square foot. Deductions of 7% for vacancy and 5% for management and reserves are taken from this projected gross. The annual net income is estimated to be \$837,589.00. Mr. Shafer concludes to an overall capitalization rate of 7.5% based upon investor surveys. The indicated value by this approach is \$11,170,000

Respondent assigned a value of \$12,692,588.00 for the subject property for tax year 2007 and 2008 but is recommending a reduction to \$11,170,000.00 based upon the appraisal submitted.

The Board was convinced Respondent incorrectly estimated the income the subject property can command by reliance upon lease rates that were renewals rather than agreements settled during the valuation period.

The Board was not responsive to Mr. Stevens' approach in the income analysis. The Board found the process, of adding \$527,478.00 in expenses to the NNN rate followed by reduction of only \$354,570.00 to obtain a new net income, to be less reflective of the market compared to the methodology applied by Respondent.

The Board was also convinced the correct approach to capitalization of the net income involves application of a market derived overall capitalization rate to a similarly market derived estimate of net income.

Based on these conclusions the Board has recalculated the income and expenses. From information derived within both reports, the Board has determined a gross income estimate of \$20.00/SF, on a NNN basis, which is supported by rent comparables presented by both parties.

Vacancy of 7% is applied to the projected gross income and this amount is further reduced by 5% to reflect oversight, reserves for replacement, and expenses during vacancy. The net operating income is recalculated as \$664,040.00. Net operating income is capitalized by an overall rate of 8% based upon the market derived rates provided by Petitioner. The indication by this approach is \$8,300,505.00.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2007 and 2008 valuation of the subject property was incorrect

The Board concludes that the 2007 and 2008 actual value of the subject property should be reduced to \$8,300,505.00.

ORDER:

Respondent is ordered to reduce the 2007 and 2008 actual value of the subject property to \$8,300,505.00.

The Douglas 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.

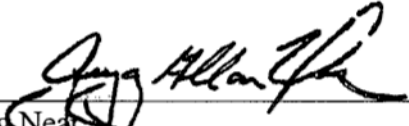
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

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DATED and MAILED this 6 day of May 2011.

BOARD OF ASSESSMENT APPEALS

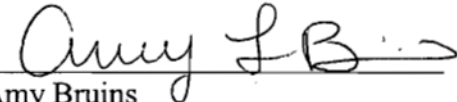


Gregg Neal



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

