

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROCKY MOUNTAIN MOTORISTS, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION and DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 57337 & 57386</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 1, 2012, Louesa Maricle and Lyle D. Hansen presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Michelle Bush, Esq. Petitioner is protesting the 2009 and 2010 actual value of the subject property.

As preliminary matters, both Petitioner and Respondent stipulated to: 1.) consolidation of docket numbers 57337 and 57386 for this hearing; 2.) admission into the record of Petitioner's Exhibits #1 and #2, and, Respondent's Exhibits A and B; 3.) acceptance of Mr. Todd Stevens and Mr. Richard Phinney as expert witnesses.

Subject property is described as follows:

**4100 East Arkansas Avenue and 1451 South Ash Street, Denver,
Colorado
Denver County Schedule Nos. 06192-17-005-000 and 06192-17-006-000**

Petitioner requested an actual value of \$2,500,000.00 for the subject property for tax years 2009 and 2010 on the petitions but reduced that value at the hearing to \$2,100,000.00. Respondent assigned a value of \$4,433,500.00 for the subject property for tax years 2009 and 2010.

The subject property includes a two-story commercial office building rated as class "C" structure by Petitioner and class "B" structure by Respondent, constructed either in 1957 per Petitioner or in 1965 per Respondent. Subsequent additions were built per Petitioner in 1985 and

1999, and in 1998 per both Petitioner and Respondent. The building contains a gross building area of 45,824 square feet above ground. The building has a basement area containing a total of 18,346 square feet. The basement has a finished lunchroom and conference room with additional area utilized as storage space. There are two lot parcels containing a total of 99,356 square feet. Zoning is B1. The additional land area has parking improvements on site.

Petitioner presented the following indicators of value:

Market:	\$2,978,560.00
Cost:	\$.00
Income:	\$2,009,966.00

Petitioner's witness, Mr. Todd Stevens, of Stevens & Associates Cost Reduction Specialists Inc. and a Colorado Registered Appraiser, presented four comparable sales ranging in sale price from \$1,600,000.00 to \$17,400,000.00 and in size from 28,842 to 155,717 square feet. After adjustments were made, the sales ranged from \$2,796,180.00 to \$3,789,187.00 or \$61.02 to \$82.69 per square foot.

Mr. Stevens presented no cost approach.

Mr. Stevens presented an initial income approach to derive a value of \$2,039,913.00 for the subject property but presented a revised income approach at the hearing with a value of \$2,009,966.00. Mr. Stevens concluded a gross rental income for the office portion at \$12.50 per square foot and \$1.50 per square foot for the basement warehouse area. He concluded a vacancy and collection loss of 15%; a management fee of 5%; office expense at \$4.00 per square foot; warehouse expense at \$0.85 per square foot; operating maintenance reserves and replacements at 15%; and an overall capitalization rate of 10.44%. Mr. Stevens concluded a value indication by the income approach of \$2,009,966.00. He placed greater weight upon the income approach for his final indication of value.

Respondent presented the following indicators of value:

Market:	\$5,362,200.00
Cost:	\$5,556,200.00
Income:	\$4,562,800.00

Respondent's appraiser, Mr. Richard Phinney, a Colorado Certified General Appraiser, presented four comparable sales ranging in sale price from \$5,365,000.00 to \$26,300,000.00 and in size from 65,000 to 205,496 square feet. After adjustments were made, the sales ranged from \$4,222,700.00 to \$4,576,400.00 or \$92.15 to \$99.87 per square foot.

Mr. Phinney used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$5,556,200.00. He gave minimal weight to the cost approach as a value indication of the subject.

Mr. Phinney used the income approach to derive a value of \$4,562,800.00 for the subject property. He concluded a gross rental rate for the office portion at \$16.50 per square foot and a gross rental rate of \$6.67 per square foot for the unfinished basement area. He concluded a vacancy and collection loss rate of 15%; operating expenses at \$5.24 per square foot; an overall capitalization rate of 9.00%. Mr. Phinney concluded a value indication by the income approach of \$4,562,800.00. He placed greater weight upon the income approach for his final indication of value.

Respondent assigned an actual value of \$4,433,500.00 to the subject property for tax years 2009 and 2010.

Sufficient probative evidence and testimony was presented to prove that the tax years 2009 and 2010 valuations of the subject property were incorrect.

The Board agreed with both Petitioner's and Respondent's appraisers that the income approach be given greater reliability for the value indication of the subject. The Board gave consideration to the subject improvement additions that occurred in 1998 and 1999; to the improvement up-grades; and, the good quality office finish. The Board considered the office quality to be in the "high Class C to low Class B" range. The Board considered the subject to be superior to Petitioner's comparable rentals and inferior to Respondent's comparable rentals in terms of office quality.

The Board concluded an economic rental rate of \$15.00 per square foot for office space and an economic rental rate of \$4.00 per square foot for basement space; a vacancy rate of 15%; operating expenses at \$6.00 per square foot; and, an overall capitalization rate of 10.0% resulting in a value indication of \$3,717,000.00.

The Board concludes that the 2009 and 2010 actual values of the subject property should be reduced to \$3,717,000.00.

ORDER:

Respondent is ordered to reduce the 2009 and 2010 actual values of the subject property to \$3,717,000.00.

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 24th day of February, 2012.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink, appearing to read "Louesa Maricle".

Louesa Maricle

A handwritten signature in black ink, appearing to read "Lyle D. Hansen".

Lyle D. Hansen

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

A handwritten signature in black ink, appearing to read "Milla Crichton".

Milla Crichton