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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SCARLET UNITS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 57692</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on October 26, 2011, Diane M. DeVries and Sondra W. Mercier presiding. Mr. Joel Sax, appeared pro se on behalf of Petitioner. Respondent was represented by David Frankel, Esq. Petitioner is protesting the actual value of the subject property for tax year 2011.

Subject property is described as follows:

**738 Scarlet Street, Grand Junction, Colorado
Mesa County Schedule No. 2701-313-20-001**

The subject is a drive-through industrial building of approximately 13,000 square feet situated on a 1.03-acre site. As of the date of value, the building was partially leased, with annual income of approximately \$42,000.00 reported.

Petitioner is requesting an actual value of \$650,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$922,350.00 for the subject property for tax year 2011.

Mr. Sax presented a cost approach to derive a market-adjusted cost value for the subject property of \$528,000.00. Mr. Sax relied on his knowledge of the market and construction costs to support changes to an earlier version of a cost approach prepared by the Mesa County Assessor's Office.

Petitioner presented an income approach that showed a value of \$494,000.00 for the subject property. The income approach included a deduction of 50% for vacancy and collection loss, and was also a copy of a prior calculation made by the Assessor's Office.

Mr. Sax contends that Marshall and Swift cost data does not accurately reflect actual costs in the Grand Junction market area. Mr. Sax based his land value on offers he had made for other similar industrial lots. Mr. Sax based his analysis on a total square footage for the building of 12,354-square feet taken from building plans.

Respondent presented the following indicators of value:

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| Cost: | \$771,000.00 |
| Market: | \$1,096,000.00 |
| Income: | \$859,000.00 |

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$771,000.00. Mr. Steve Henderson, Certified Residential Appraiser, provided six comparable land sales that occurred between January 2008 and December 2009, during the extended base period. The sales indicated a range in prices of \$5.54 to \$8.42 per square foot. Mr. Henderson concluded to a value of \$7.00 per square foot for a total value of \$314,070.00 for the subject site. The replacement cost new less depreciation was calculated as \$456,468.00.

Respondent presented four comparable sales ranging in sale price from \$825,000.00 to \$2,325,000.00 and in size from 11,375 to 18,600 square feet. After adjustments were made, the sales ranged from \$945,010.00 to \$1,150,464.00. Mr. Henderson placed the greatest reliance on comparable sales one and two, as the most proximate in location to the subject and the most recent sales included in the analysis. Respondent concluded to a value of \$1,096,000.00 using the market approach.

Respondent used the income approach to derive a value of \$859,000.00 for the subject property. Mr. Henderson concluded to a rental rate of \$7.00 per square foot net of expenses for unit A, and \$6.50 per square foot for unit B. A deduction for vacancy and collection loss of 10% was applied to unit A and 25% was applied to unit B. Mr. Henderson made a deduction of 5% for replacement reserves to both units. He applied a capitalization rate of 8.0% to unit A and 8.5% to unit B. Mr. Henderson valued the units separately because unit A is leased, offers street frontage, and was believed to have lower risk. Unit B is vacant and has an off-street location. The higher risk associated with unit B is reflected in lower rent, higher vacancy and collection loss, and a higher capitalization rate.

Respondent contends that the building is 13,150 square feet with 1,534 square feet of finished office space, determined by actually measuring the building. Mr. Henderson testified that the drive-through configuration of the building provided greater flexibility to users.

Respondent gave consideration to all three approaches; but placed the greatest reliance on the sales comparison and income approaches and concluded to a value of \$960,000.00 for the subject. Respondent assigned an actual value of \$922,350.00 to the subject property for tax year 2011.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2011. Respondent provided market data to support all three approaches to value. The Board was convinced that Respondent had concluded to a reasonable value based on comparable sales data, rental data, vacancy and the overall rate information provided. The actual value assigned to the subject is at the low end of the range indicated by comparable sales.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2011 valuation of the subject property was incorrect. Petitioner provided insufficient sales data to support the land value concluded by Petitioner for the subject. Petitioner was unable to convince the Board that the current vacancy in the building was a long term issue caused by physical or functional problems with the building.

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).

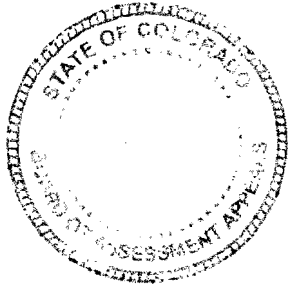
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 9th day of November, 2011.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

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.

Milla Crichton

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