

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 57730

Petitioner:

13100 BUILDING LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 25 2012, Louesa Maricle and MaryKay Kelley presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by James Burgess, Esq. Petitioner is requesting an abatement/refund of taxes for tax years 2009 and 2010.

Subject property is described as follows:

**13100 West 43rd Drive, Golden, Colorado
Jefferson County Schedule No. 430319**

The subject property is a single-tenant 42,387-square-foot office/warehouse. It was built in 2002 on a .973 acre site in a Wheat Ridge industrial park.

Petitioner is requesting an actual value of \$775,000.00 for the subject property for each tax year 2009 and 2010. Respondent assigned actual values of \$1,541,400.00 but is recommending reductions to \$1,500,000.00.

Petitioner presented the following indicators of value:

Market:	\$925,045.00
Cost:	Not provided
Income:	\$750,678.00

Based on the market approach, Petitioner presented an indicated value of \$55.00 per square foot or \$925,045.00 for the subject property. The witness, Todd J. Stevens, Registered Appraiser, presented three comparable sales ranging in sale price from \$75.79 to \$116.12 per square foot. After adjustments were made, the sales ranged from \$52.25 to \$60.63 per square foot.

Petitioner presented an income approach to derive a value of \$750,678.00 for the subject property. Mr. Stevens applied \$4.50 per square foot to the net rentable area based on seven comparable leases (excluding one full-service lease at \$9.00) ranging from \$2.60 to \$6.95 per square foot. He applied \$3.00 for common area maintenance and \$12,000.00 for the cell tower. Total income was estimated at \$138,143.00. A vacancy allowance of 10% (CoStar data for mid-year 2008 within a one-mile radius) and a management fee of 3% were deducted. Common area maintenance minus property tax and operating expenses, maintenance and reserves at 10% were also deducted. Annual net income was capitalized at 11.04% (8.5% plus 2.54% tax load) based on six 2007-2008 extrapolated cap rates ranging from 7.40% to 10% and Real Estate Survey reporting rates for industrial warehouses ranging from 7.0% to 12.0%.

Respondent presented the following indicators of value:

Market:	\$1,510,000.00
Cost:	\$1,455,000.00
Income:	\$1,500,000.00

Based on the market approach, Respondent presented an indicated value of \$90.00 per square foot or \$1,510,000.00. The witness, Randall K. Brenimer, Certified General Appraiser, presented three comparable sales ranging in time-adjusted sale prices from \$78.12 to \$96.12 per square foot. After adjustments were made, the sales ranged from \$78.45 to \$105.42 per rentable square foot.

Based on the cost approach, Mr. Brenimer presented an indicated value of \$1,455,000.00. The site value of \$4.50 per square foot was based on mass appraisal analysis. Improvement value was based on Marshall Swift data not provided to the Board. Respondent placed no weight on this approach.

Based on the income approach, Mr. Brenimer presented an indicated value of \$1,500,000.00. He applied \$10.50 per square foot to the net rentable area based on income modeling and independent publications not detailed or provided to the Board. A vacancy allowance of 11% and a management fee of 3% were deducted. Annual net income was capitalized at 9% (7% plus 2% tax load) based on the Federal Reserve Statistical Release publication not provided to the Board.

Petitioner presented sufficient probative evidence and testimony to show that valuation of the subject property was incorrect.

The Board considers the income approach to be most reliable and gives Petitioner's analysis more weight due to lack of support and the absence of relevant exhibits for Respondent's data. Petitioner's lease comparables 2, 4, 5 and 6, which fall mid range, support a rental income of \$6.25 for 16,809 square feet. The addition of CAM at \$3.00 per square foot and the cell tower at

\$12,000.00 equals total income of \$167,483.00. Subtraction of a 10% vacancy allowance, 3% management fee, CAM less property tax, and 10% operating, maintenance and reserves equals a net operating income of \$105,948.00. Relying on Petitioner's comparables 2 and 5, which are most similar in size, the cap rate is estimated at 7.75%, and the tax load is estimated at 10.3% (29% X mill levy). Value is estimated at \$1,028,623.00 or \$61.19 per square foot.

Neither party's market analysis is persuasive. The Board cannot correlate a value based on the wide range of sale prices and adjustments. Little weight is assigned this approach.

The Board concludes that the 2009 and 2010 actual values should each be reduced to \$1,028,623.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on 2009 and 2010 actual values for the subject property of \$1,028,623.00.

The Jefferson 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

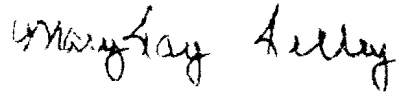
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 22nd day of February, 2012.

BOARD OF ASSESSMENT APPEALS

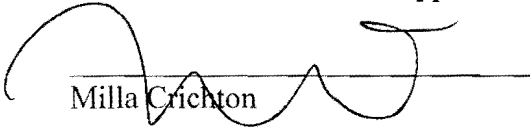


Louesa Maricle



MaryKay Kelley

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



Milla Crichton

