

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROLANDI PROPERTIES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 59040</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 21, 2012, Diane M. DeVries and Debra A. Baumbach presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Linda K. Connors, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**234, 236 & 238 Linden St, Fort Collins, Colorado
Larimer County Schedule No. R0043605**

The subject property is a two story masonry multi-tenant building built in 1901 that is located in the historic area of Old Town, Fort Collins. There is approximately 7,200 square feet of net rentable area, and the land size is approximately 6,500 square feet. The first floor is occupied by two long term restaurant tenants. The second floor was also previously occupied by a restaurant that later moved out in 2009, at which time a bridal shop executed a lease and renovated the space in 2010.

Respondent assigned an actual value of \$950,000.00 for tax year 2011. Petitioner is requesting a value of \$500,000.00 for the 2011 tax year.

Petitioner’s witness, Mr. Todd Stevens, presented the following indications of value:

Cost: N/A
Market: \$572,706.00

Income: \$494,190.00

Mr. Stevens testified that the cost approach was considered in the analysis, however, because of the age of the building and difficulty in calculating adequate depreciation, this methodology was not applied.

For the market approach, Mr. Stevens presented one comparable sale that sold for \$795,000.00. Percentage adjustments were made for location, differences in physical characteristics and size. After adjustments were made, Mr. Stevens concluded to a value of \$572,706.00 based on the market approach.

Mr. Stevens presented an income approach to derive a value of \$494,190.00 for the subject property. Mr. Stevens presented nine comparable leases including one lease from the subject property as support for the market rent. The leases ranged from \$9.00 to \$14.38 per square foot. Seven of the nine leases, including the subject lease, were determined on a triple net basis, one lease on a gross basis, and one on a modified gross. Petitioner's witness concluded to a rental rate of \$11.00 per square foot for the first floor area and \$9.00 per square foot for the second floor level.

Mr. Stevens applied a vacancy allowance of 15%, a management fee of 5%, and operating, maintenance, reserves and replacements of 15% per square foot. Petitioner's witness based his overall capitalization rate of 10% on Burbach & Associates, Inc.'s Real Estate Investment Survey. Using a capitalization rate of 10%, the witness concluded to a value of \$494,190.00 for the subject property based on the income approach.

Mr. Stevens also used the income approach to derive a value of \$422,305.00 based on the actual income and expenses of the subject property.

Mr. Stevens testified that Respondent has overvalued the subject property. According to Mr. Stevens, Respondent used a lower capitalization rate that was not supported by any of the evidence presented. The building is very old with some diminished utility and would only attract small mom and pop operations and not any national tenants. Mr. Stevens stated that Respondent's comparable sales used in the market approach did not consider arms-length transactions or other available properties on the open market as reported by the Co-Star Service. According to Mr. Stevens, Respondent's adjustments made for differences were very inconsistent.

Petitioner is requesting an actual value of \$500,000.00 for the subject property for tax year 2011.

Respondent presented an indicated value of \$950,000.00 for the subject property for tax year 2011.

Respondent's witness, Ms. Christine Murray, Certified General Appraiser with Larimer County Assessor's Office, presented the following indications of value:

Cost: \$1,180,546.00

Market: \$1,029,000.00
Income: \$950,000.00

Ms. Murray testified that she considered all three approaches to value but placed the most weight on the income approach.

Ms. Murray testified that the subject property is located in a highly desirable area in Old Town, Fort Collins. The vacancy rates in the area have been very low due to the area desirability and location only one mile away from the Colorado State University. Ms. Murray believes that the income approach is well supported.

Based on the cost approach, Ms. Murray presented an indicated value of \$1,180,546.00 (Ms. Murray changed this value at the hearing from \$1,536,382.00 originally listed in the Appraisal Report) for the subject property. Ms. Murray utilized a state-approved Marshall and Swift Cost Estimating Service to derive a market-adjusted cost value for the subject property.

Ms. Murray concluded to depreciated improvements value of \$530,546.40 (Ms. Murray changed this value at the hearing from \$886,382.00 originally listed in the Appraisal Report) and a land value of \$650,000.00 based on vacant land sales that occurred during the statutory time frame. Ms. Murray gave less weight to this approach.

Based on the market approach, Ms. Murray presented an indicated value of \$1,029,000.00 for the subject property.

Ms. Murray presented five comparable sales ranging in sale price from \$326,000.00 to \$1,100,000.00 and in size from 1,853 to 9,400 square feet. After adjustments were made, the sales ranged from \$123.00 to \$176.00 per square foot. Respondent concluded to a value of \$137.00 per square foot for the subject.

Ms. Murray testified that all of her comparable sales are located within a half mile from the subject in Old Town, Fort Collins and share similar market influences. According to Ms. Murray, all the sales were arms-length transactions and adjustments were made for all differences reflecting market values in that area.

Respondent used the income approach to derive a value of \$950,000.00 for the subject property. Ms. Murray believes that this is the most reliable methodology to value the subject property and placed the most weight on this approach.

Ms. Murray considered similar properties' as well as the subject property's rental rates and concluded to the rental rate of \$18.00 per square foot for each of the restaurants located on the first floor and \$9.50 for the bridal shop on the second floor. Ms. Murray applied 8% vacancy and collection loss, 11% management, insurance and reserves for replacement, and used an 8.5% capitalization rate.

Respondent assigned an actual value of \$950,000.00 for the subject property for tax year 2011.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2011.

The Board concluded that the cost approach is the least reliable approach and the market approach is given secondary weight.

The Board concluded that the income approach is the best indication of value for the subject property. The parties utilized different market rent values in the analysis. Respondent presented no comparable lease data to support its conclusion of value and Petitioner's witness presented nine comparable leases including one for the subject property. The Board placed primary weight upon Petitioner's comparable rental rates. Petitioner's comparable rental rates also support the lease rate that was executed for the subject property as a market rental rate. The Board concluded to a rental rate of \$13.00 per square foot for the first floor and \$9.00 for the second floor.

The Board agrees with Respondent that the subject property is located in a highly desirable area of Fort Collins. Although rental rates appear to be lower than in previous years, the Board agrees with Respondent that the vacancy rates in the area are lower than what Petitioner is reporting. The Board agreed with Respondent's vacancy rate of 8% and with overall operating expenses of 11%. The Board placed greater weight on Petitioner's capitalization rate of 10%, to reflect the risk associated with the types of tenants the property would normally attract.

The Board concluded that the 2011 actual value of the subject property should be reduced to \$649,000.00 (rounded).

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$649,000.00 (rounded).

The Larimer 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).

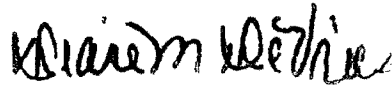
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 12th day of April, 2012.

BOARD OF ASSESSMENT APPEALS

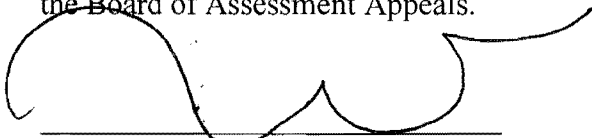


Diane M. DeVries



Debra A. Baumbach

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



Milla Crichton

