

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>HOLIDAY LAND CO,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 59493</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 22, 2012, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**10310 W. Colfax Ave, Lakewood, Colorado  
Jefferson County Schedule No. R069930**

The subject property consists of two improvements: a bowling center and a service garage. The bowling center contains 31,971 square feet with 2,024 square feet of storage area and a 1,442 square foot basement. The bowling facility includes a billiards room, a storage and a banquet section. The auto service garage consists of 968 square feet. The site size is 2.62 acres with several entry points. The bowling facility was constructed in 1958 with later additions in 1975 and in 1977. The overall effective year of construction for the subject is estimated to be 1985.

Petitioner is requesting an actual value of \$1,000,000 for the subject property for tax year 2011. Respondent assigned an actual value of \$1,734,400 for the subject property for tax year 2011.

Petitioner's witness, Mr. Derrick Fossett, the lessee of the subject property, testified that he assumed the existing lease of the subject on September 30, 1999. The lease is a 10 year triple net

lease at a rate of \$10,000 per month. Mr. Fossett operates a 30 lane bowling alley, a banquet and a billiards facility. Mr. Fossett subleases the auto service garage to an auto detail shop at a lease rate of \$400 per month; the tenant is currently six months in arrears.

Mr. Fossett testified that the buildings are old and outdated with an excessive degree of deferred maintenance. The parking lot needs to be resurfaced and the roof needs to be replaced. There is currently a pending litigation with the insurance company over the cost of roof repairs required as a result of extensive damage caused by a hail storm in 2009. According to Mr. Fossett, his operating expense ratios are excessive in the business with minimal returns. Mr. Fossett's small salary is invested into keeping up the subject's expenses. The bowling industry as a whole is declining with many facilities closing due to the high operating costs.

Petitioner's witness, Mr. John DeRungs, MAI, testified that he was asked by Petitioner to critique Respondent's appraisal. He was not engaged to perform an appraisal on the property or do a formal review. After reading Respondent's appraisal, Mr. DeRungs found that the cost approach was the only method used by Respondent in the valuation process. Mr. DeRungs then searched the Denver Metro area to see if there were any sales of bowling facilities and found eight such sales. However, he did not review any of the sales to determine if they were appropriate sales comparable to the subject.

Mr. DeRungs testified that the subject is located in a built-up area of Colfax consisting of older improved sites with some new redevelopment. He believes that looking for vacant land sales in the area is futile because there is insufficient available data. Mr. DeRungs stated that if he were to value the subject, he would rely on improved sales of similar properties as they would be more representative of land value. He was able to locate four sales within the extended statutory five year time frame. One of the sales included was also used by Respondent. That sale was a vacant land sale however it was considered because of its location in the subject's market area reflecting similar market condition. Mr. DeRungs did not confirm any of the sales and did not research if any of the sales were suitable for comparison. Mr. DeRungs did not conclude to any value or determine an appropriate value methodology for the subject.

Respondent presented the following indicators of value:

Cost:	\$2,495,790 (rounded)
Market:	Not Developed
Income:	Not Developed

Respondent's witness, Ms. Darla K. Jaramillo, Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$2,495,790 based on the cost approach. The witness presented five vacant land sales ranging in sales price from \$1,556,000 to \$3,000,000 and in size from 111,185 square feet to 245,199 square feet. After adjustments were made, the sales ranged in sales price from \$1,712,260 to \$3,150,000 or \$9.70 to \$22.57 per square foot.

Ms. Jaramillo also used a state-approved cost estimating service to determine a market-adjusted cost value for the subject property. The cost new and depreciation was derived from the

Marshall and Swift Cost Calculator Method. Respondent applied a 30 year life expectancy with an effective age of 25 years for the bowling center and 35 year life expectancy with an effective age of 25 years for the auto service garage. The yard improvements were given an 8-year life expectancy and a 15-year effective age.

Ms. Jaramillo testified that the bowling facility is considered to be a special use property. In valuing the subject, the market approach was considered but determined to be unreliable. A search in the Denver market area and outside of the area was done to locate possible comparable sales within the extended five year statutory time frame. There was a limited number of such comparable sales available. According to Ms. Jaramillo, usually in types of properties such as bowling centers, personal property and business values can be intermingled, making it difficult to extract the value of just the real estate portion. The income approach is also unreliable because many of the comparable types of properties have non-market leases in place. The cost approach was considered to be the most reliable indication of value.

Ms. Jaramillo testified the subject property is located within the City of Lakewood's West Colfax Avenue Action Plan. The market area primarily consists of dense commercial development including retail, office, restaurants and auto dealerships. The area consists of older development with some new development occurring within the last five to ten years. The subject is considered to have a good location with good access.

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

The Board was not persuaded by Petitioner's argument that Respondent incorrectly valued the subject by using the cost approach or that the use of vacant land sales to derive a land value in the cost approach was inappropriate. The Board concluded that Respondent correctly applied the appropriate methodology in valuing the subject property.

Petitioner's witness, Mr. DeRungs, provided testimony mostly regarding business value versus the value of the real estate. The Board placed minimal weight on the testimony by Mr. DeRungs as the sales data presented by him only provided minimal information, no sales confirmation or research was done to determine the conditions of the sales or if they were suitable. The Board agrees that using the sales of improved sites or other shell buildings are also acceptable. However, a thorough analysis would be required to determine their suitability.

The Board agrees that the subject property is near the end of economic life and most likely any potential buyer would consider the purchase of the subject property as a redevelopment site. The Board agrees that the property suffers from various forms of obsolescence and underperforms in the market. However, Respondent's assigned value is well below the indicated value and takes into consideration many of the subject's issues. Additionally, the Board notes that Respondent's assigned value is below the indicated value of the subject's land portion, not including the improvement value.

**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 29th day of November, 2012.



**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
James R. Meurer

  
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Debra A. Baumbach

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

  
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Milla Crichton