BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **HIGHLANDS BROADWAY OPCO LLC,** v. Respondent: **DOUGLAS COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 60335**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 31, 2013 Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

9245-9265 South Broadway, Highlands Ranch, CO
Douglas County Account Nos. R0405556 & R0405561

The property consists of a two building, single story, strip retail center located in the Highlands Ranch submarket and contains 39,003 net rentable square feet. The center is masonry construction, was built in 1997, and is reported to be in overall above average condition. The center is anchored by a Safeway grocery store, however, Safeway is not part of this appeal. Land area is approximately 206,823 square feet and zoning is PD (Planned Development) through Highlands Ranch. As of the date of value, the center was 6.9% vacant.

Respondent assigned a value of $8,320,911 for tax year 2011. Petitioner is requesting a value of $6,000,000 for tax year 2011.

Petitioner presented the following indicators of value:

Cost:	N/A
Market	$5,850,450
Income:	$6,108,056

Based on the market and income approaches, Petitioner concluded to an indicated value of $6,000,000 for the subject property.

Petitioner's witness, Mr. Todd Stevens, presented a market (sales comparison) approach that included three comparable sales ranging in sales price from $14,350,000 to $22,000,000 and in size from 117,664 square feet to 190,104 square feet. After adjustments were made, the sales ranged from $123.94 to $169.52 on a per square foot basis. The major adjustments to the comparable sales consisted of location, age, economic characteristics, and building square footage. Petitioner reconciled the adjusted sales at $150.00 per square foot resulting in an indicated value of $5,850,450.

Petitioner also presented an income approach to derive a value of $6,108,056 for the subject property. A direct capitalization model was used and consisted of income based on a $21.00 per square foot full triple net (NNN) rental rate, as well as reimbursable expenses. A long term vacancy and collection factor was estimated at 10% and expenses including management fees were estimated at $408,483. The net operating income of $749,906 was then capitalized at a 12.25% overall rate (9.5% plus tax load) resulting in the indicated value of $6,108,056 via the income approach. Petitioner's witness indicated that the income approach received the greatest amount of consideration relative the final conclusion of value.

Petitioner argued that Respondent's sales used in the market approach were not truly comparable due to size and location. Petitioner further argued that the market rental rate derived by Respondent's lease comparables was suspect, and that Respondent used an extraordinarily low capitalization rate within the income approach.

Respondent presented the following indicators of value:

Cost:	N/A
Market	$8,900,000
Income	$9,200,000

Respondent concluded to an indicated value of $9,000,000; however, is supporting the Board of Equalization assigned value of $8,320,911.

Respondent's witness, Mr. Michael J. Fronczak, MAI, a Certified General Appraiser with the Douglas County Assessor's Office, presented a market approach that included four comparable sales ranging in sales price from $1,841,175 to $9,500,000 and in size from 9,919 square feet to 50,388 square feet. The major adjustments to the comparable sales were for location, access/visibility, building square footage, age, quality, and utility. Respondent reconciled the adjusted sales at $230.00 per square foot resulting in an indicated value of $8,900,000 rounded via the market approach. Respondent's witness testified that the market approach was given secondary weight relative to his final opinion of value.

In addition, Respondent presented an income approach. A direct capitalization model was used and consisted of income based on a $25.00 per square foot full triple net (NNN) rental rate, as well as reimbursable expenses. A long term vacancy and collection factor was estimated at 10% and expenses including management fees were estimated at $252,349. The net operating income of $1,032,409 was then capitalized at a 11.27% overall rate (8.5% plus tax load) resulting in an indicated value of $9,200,000, rounded. The witness indicated that the income approach received the greatest amount of consideration relative the final conclusion of value.

Respondent's witness testified that the estimated triple net lease rate accurately reflected market rent for the subject. Respondent's witness further testified that Petitioner used anchor and "big box" rental rates in their estimated market rent, and that both expenses and the overall rate were overstated.

The significant differences between Petitioner's and Respondent's conclusions of final value were found in the estimate of market rent ($21.00as opposed to $25.00) and in the overall rate (8.5% as opposed to 9.5%) used in the direct capitalization model.

After careful consideration of the testimony and exhibits presented in the hearing, the Board concurs with the parties that the income approach should be given the most weight relative to the final opinion of value. After review of the variables found in both the exhibits and testimony used by both Petitioner and Respondent, the Board concludes that the variables used in Respondent's income approach are most supportable, with the exception of the market rental rate. The board concludes based on the data and testimony provided that a $22.00 NNN rental rate is more indicative of the market for this type of space. As noted, other than the market rental rate, the Board finds that the remaining variables used in Respondent's model including the 8.5% overall rate are most persuasive, especially given the leasing history of the subject property. Note that the parties generally agree relative to the vacancy factor (10%) and expenses applied to the subject. These variables are reflected in the direct capitalization model found below:

Gross Income					
Rentable Space	39,003	sf	$22.00	$858,066	
Expense Recovery				$448,535	
Other Income				$3,900	
Total Gross Income	39,003			$1,310,501	
Vacancy Factor	10.00%			$131,050	
Effective Gross Income				$1,179,451	
Expenses				$252,349	
Net Operating Income				$927,102	
Overall Rate				11.27%	inc tax load
				$8,226,281	
Indicated Value				$8,226,281	
per square foot				$210.91	

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to $8,226,281.

The Douglas County Assessor is directed to change 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.

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

DATED and MAILED 11th day of February, 2013.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

James R. Meurer

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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