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| <p><b>BOARD OF ASSESSMENT APPEALS,<br/>STATE OF COLORADO</b><br/>1313 Sherman Street, Room 315<br/>Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MEADOWBROOK FALLS LP,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARAPAHOE COUNTY BOARD OF<br/>EQUALIZATION.</b></p> | <p><b>Docket No.:</b></p> <p><b>60202 and 60968</b></p> |
| <p><b>ORDER</b></p>  |   |

**THIS MATTER** was heard by the Board of Assessment Appeals on October 15, 2012, Diane M. DeVries and Brooke B. Leer presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 (docket 60202) and 2012 (docket 60968) actual value of the subject property.

The actual value determination for 2011 will be applied for 2012. The testimony and exhibits presented at the hearing of Dockets 60196 and 60960 on September 24, 2012 is incorporated into evidence herein.

Subject property is described as follows:

**2281 East Arapahoe Road, City of Centennial, Arapahoe County, CO  
Arapahoe County Schedule No. 2077-23-4-15-003**

The subject property is a free-standing, single-tenant, concrete and masonry retail building. It is leased by Walgreens. It has one level and was built in 2008. It is 14,820 square feet.

Petitioner is requesting an actual value of \$2,550,000 for the subject property for tax years 2011 and 2012. Respondent assigned a value of \$3,237,000 for tax years 2011 and 2012. This value is the maximum value determined by Respondent at the County Board of Equalization. Respondent's appraisal presented at the hearing had a higher value conclusion of \$4,000,000. The Board has addressed the differences in the valuation procedures used by

Petitioner and Respondent and selected the method of analysis the Board finds most appropriate for ad valorem purposes for this property type.

Petitioner's expert witness, Christopher N. Baker, MAI and Certified General Appraiser, appraised the subject property with a date of value of June 30, 2010. He appraised the fee simple estate applying all three approaches to value. He concluded the highest and best use of the subject for continued retail related use.

Petitioner's appraiser presented an income capitalization approach using rental data from two former Walgreens stores offered for lease at \$15.00 and \$16.00 per square foot, one located on Parker Road in Aurora and the other in west Denver on Colfax. The other rent data offered was for facilities not close to the subject property either. There were two Office Depot buildings and an Ultimate Electronics store. The properties were rented for \$13.50 to \$17.60 per square foot. A market rent of \$17.00 per square foot was applied to the subject building. The Board concludes that the market rent applied is on the low end of the presented data for the subject property and should be higher based on the demographics that were presented for the subject area. The vacancy rate applied at 8% is appropriate for the area with several retail spaces available at the new Southglenns area. Some minimal deductions for management and replacement reserves are appropriate as applied.

Petitioner's witness also presented the sales comparison approach to value the subject. The retail sales and listings used were in different areas than the subject and ranged from \$136.17 to \$174.75 per square foot. After adjustments were made, the sales/listings ranged from \$156.60 to \$183.49. The subject area is better than the areas where the sales were gathered and more significant location adjustments are needed to reflect the better area. The Board concludes that the value applied by Petitioner's appraiser to the subject by the sales comparison approach should be higher than that indicated at \$170.00 per square foot.

Petitioner's appraiser also performed a cost approach to value but indicated it was not weighted in the final conclusion of value.

Respondent's appraiser and expert witness, Mr. Gary J. Mycock, a Certified General Appraiser and an employee of the Arapahoe County Assessor's Office, appraised the fee simple estate of the subject property with an effective appraisal date of June 30, 2010. The appraiser applied all three approaches to value the subject property. Mr. Mycock's conclusion of the highest and best use of the subject property is a free-standing drug store.

In the analysis presented by Respondent, the data used in general was reflective of the value for a Walgreens store, based primarily on data from other Walgreens facilities. The actual rental data from other Walgreens stores was applied in the income capitalization approach with adjustments. The sales of other operating Walgreens facilities were used, with the above market rents in place at the time of sale, and adjustments were applied to reflect a fee simple interest rather than the leased fee interest.

Respondent's valuation presumes that the subject property will likely continue as a drugstore and the data from other drugstores, with adjustments, that reflect the fee simple interest, should be the primary data used to value the subject property.

Respondent also applied a cost approach to value and suggested it had some validity in concluding a final value estimate because of the relatively recent year of construction for the subject in 2008.

The Board concludes that the adjustments to the Walgreens sales and rents for a leased fee interest should be significant enough to be reflective of what other well located retail facilities are being sold and rented for in the open market. The subject location caters to a national credit retail user. Sales and leases of drugstores to other drugstore users in the subject area would be the ideal data to use in the valuation of the subject; however, no such data was presented for the Board's consideration. The testimony of Ms. Anna Pelts, a Walgreens employee and witness for Petitioner, indicated that drugstores generally do not sell or lease to other drugstore users in Colorado. She testified that most sales and lease agreements involving Walgreens facilities restrict them from being sold to a similar user.

The Board concludes that the market for the subject, if available on the open market for sale or lease as of June 30, 2010, would be to a single tenant retail user, which is reflective of the existing use. Some adaptations may be necessary to the subject to attract a different user. Sales and rental data from other free-standing retail facilities in the subject area would be the most helpful in valuing the fee simple interest of the subject. Such data is necessary in adjusting the above market lease that is in place at Walgreens to a market rate. The Walgreens lease is based on the cost to build the facility and represents a leased fee interest. Rents from other good quality retail facilities in similar areas are used to estimate what the subject's market rent should be. Such rent information is reflective of a fee simple market value of the subject.

The adjustments applied to the sales, rents and costs in Respondent's appraisal report were not sufficient enough to be reflective of what the general retail user would be willing to pay for the subject property in a fee simple interest. The conclusion of \$4,000,000 from Respondent's appraisal report overstates the fee simple market value of the subject for the 2011 and 2012 valuation years.

The Board has placed the most weight on valuing the subject property for ad valorem purposes on the data presented in Petitioner's report. The data presented however tends to understate the value of the subject property in its particularly good location, with strong demographics and good traffic patterns.

The Board considered and read both articles presented at the September 24, 2012 hearing, Petitioner's Exhibit C, and Respondent's Exhibit 1, Addendum F. The Board also accepted Petitioner's data related to equalization in valuation, however no testimony was allowed concerning it. The Board had indicated to both parties, that the Board would determine what weight would be given to the data if any; none was given.

The Board concluded the highest and best use of the subject property, if exposed on the open market, with a willing buyer and seller, would be to develop the property with a free standing retail building that would be attractive to a national credit tenant. The most important factors in valuing the property are the market data in the subject area, actual rents and sales. The subject area may have somewhat higher vacancy in the near short term related to the opening of Southglenns. However, the shopping center draws from a broad area and the subject property is relatively new and is surrounded by newer retail. The Board expects the immediate area will continue to improve as the retail and residential occupancy improves.

To estimate a fee simple market value of the subject property as of June 30, 2010, the Board applied the following values using the income capitalization approach:

Market rent- \$18  
Vacancy rate- 7%  
Management fee- 3%  
Reserves- \$.10 per square foot  
Capitalization rate- 8.5%-9.0%

The data above suggested a value range of \$179.00 to \$189.00 per square foot for the subject property.

The sales data presented by Petitioner's appraiser in the sales comparison approach was not within the subject area. The Board concludes that sales data within the subject area or areas with similar demographics would result in a higher per square foot conclusion than Petitioner's value of \$170.00 per square foot. The application of a more significant upward adjustment for the better location of the subject to the sales data presented, suggests a value range of \$167.00 to \$199.00 per square foot.

The Board concludes a value based on the parameters applied, towards the top of the income capitalization approach and slightly above mid range of the sales comparison approach at \$186.00 per square foot. Applied to the subject's 14,820 square feet, the \$186.00 per square foot indicates a fee simple market value of \$2,756,520.

### **ORDER:**

Respondent is directed to reduce the 2011 and 2012 actual value of the subject property to \$2,756,520. The Arapahoe County Assessor's Office is directed to change their 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).

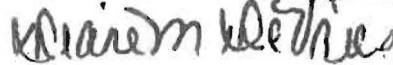
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 21<sup>st</sup> day of November, 2012.

**BOARD OF ASSESSMENT APPEALS**



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Diane M. DeVries



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Brooke B. Leer

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

