

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 62334

Petitioner:

**DOVE VALLEY BUSINESS PARK ASSOCIATES
LTD.**

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 1, 2014, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**7501 South Potomac Street
Englewood, Colorado 80112
Arapahoe County Schedule No. 2075-36-1-17-001**

The subject property is located in unincorporated Arapahoe County and is part of a larger facility occupied by the Denver Broncos football team. The improvements include two buildings utilized as a training facility and retail store. The smaller of the two buildings contains 3,608 square feet, one half of which is the retail store and the other half contains two racquetball courts. The building is frame and stucco construction and was built in 1989. The training facility is precast concrete and stucco construction built in 2004. This building contains 30,780 square feet and is improved in three sections; a small maintenance and storage area; 7,810 square feet of weight lifting and exercise area with two restrooms and 15,194 square feet of indoor practice area with artificial turf. This building has 21' to 34' wall heights and four drive-in doors on the west wall. The site contains 4.062 acres with direct access to South Potomac Street. Site improvements include paved parking and driveways as well as a portion of the north end of the Broncos outdoor practice field.

Petitioner presented the following indicators of value:

Market:	\$1,312,000
Cost:	\$1,581,000
Income:	\$1,523,000

Petitioner is requesting an actual value of \$1,400,000 for the subject property for tax year 2013.

Petitioner's witness Mr. Steve Letman, a Certified General Appraiser, presented a market approach containing five comparable sales ranging in sale price from \$1,025,000 to \$2,050,000 and in size from 29,486 to 46,130 square feet. After adjustments were made, the sales ranged from \$36.49 to \$47.93 per square foot. Mr. Letman concluded to a unit value of \$38.15 per square foot and a value by this approach of \$1,312,000.

Mr. Letman considered the combined buildings to represent the typical relationship between warehouse and office support space found in industrial sales. Sales were reported from the metro area including Adams County, Wheat Ridge, Golden, and Highlands Ranch. Sale 4 was reported as an REO sale at \$28.00 per square foot (\$825,608) that required an additional \$200,000 to repair deferred maintenance. Adding this figure to the purchase price resulted in an adjusted sale price of \$34.34 per square foot. Sale 1 and Sale 2, from Adams County and Wheat Ridge, were adjusted downward as better locations. Sale 4, also from Adams County, was adjusted upward as an inferior location. All the sales except Sale 5 were adjusted upward for older construction dates.

Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,581,000.

Mr. Letman first determined a land value opinion by presenting a summary of four sales of similar size and location. The land sales ranged from 131,551 to 313,632 square feet and sold at unit prices from \$1.31 to \$1.98 per square foot. No adjustments were made to the sales and Mr. Letman adopted a unit value of \$1.70 per square foot and a value estimate of \$300,000 (rounded) for the site.

Mr. Letman then used a state-approved cost estimating service to derive cost new estimates for the retail building and for the workout facility. The smaller building had a replacement cost new of \$125.12 per square foot. The larger building had a cost of \$74.27. Utilizing an economic age-life method of depreciation an estimate of 63% for the smaller building and 44% for the larger was applied resulting in a total RCNLD of \$1,291,000. Addition of the previously estimated land value of \$300,000 resulted in a value opinion of \$1,581,000 by the cost approach.

Petitioner presented an income approach to derive a value of \$1,523,000 for the subject property.

Petitioner's appraiser determined the appropriate income for this owner occupied property by reference to a local brokerage publication. Using a mix of reported single tenant and multi-tenant rates within the southeast sector and citing the subject's functional problems, Mr. Letman concluded

to a “gross market rental rate” of \$6.50 per square foot NNN. Mr. Letman then relied upon the same publication in citing vacancy rates of 3.48% to 11.48% for single tenant and multi-tenant buildings respectively as his basis for adopting a vacancy rate of 10%, again in consideration of the property’s limitations. Landlord expenses were estimated to be 8% of effective gross income resulting in an opinion of \$185,076 for net operating income. Mr. Letman then referred to an additional survey reported capitalization rates in the region ranged from 8% to 12% for industrial properties. Noting the functional problems of the subject Mr. Letman concluded to a 9.5% capitalization rate which was applied to the net operating income for a value of \$1,948,168. Mr. Letman pointed to his conclusions within the cost approach of increased depreciation due to a reduced economic life for the subject as support for reducing the value by \$425,500 for reconfiguration costs.

Mr. Letman considered all three approaches in his final reconciliation and gave greatest weight to the market approach with secondary weight to the cost approach and concluded to a fee simple value for the real estate of \$1,400,000.

Respondent presented the following indicators of value:

Market:	Not developed
Cost:	\$2,700,000
Income:	Not developed

Respondent determined a value of \$2,700,000 for the subject property for tax year 2013 but is deferring to the CBOE value of \$2,398,867.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$2,700,000.

Respondent’s witness Mr. Jesse Bequette, a Registered Appraiser, provided a land value opinion. Mr. Bequette presented a summary of five sales of similar size and location. The land sales ranged from 55,321 to 478,812 square feet and sold at unit prices from \$1.95 to \$3.10 per square foot. Only Sale 2, reported as significantly raised from grade, was adjusted. After the adjustment was applied to that sale Mr. Bequette concluded to a unit value of \$2.50 per square foot giving greatest weight to Sale 1 (\$2.26/SF) and Sale 3 (\$3.10/SF). Application of a unit value of \$2.50 per square foot resulted in an indicated land value of \$442,388.

Respondent’s witness Mr. Marcus Scott, a Certified General Appraiser, provided testimony regarding a long-term land lease that encumbers the property until 2030. Arapahoe County has only a copy of a version completed in 1990 and is unaware of any modifications to the lease. The lease limits the use of the subject property to the current use and approval of the lessor must be obtained for any other use. This lease also encumbers other properties within the business park and the lease is between related ownership groups.

Mr. Scott testified that research was conducted for sales and rents for properties like the subject. Mr. Scott concluded the property was ultimately built for human occupancy and not for storage. No reasonable comparables were found. With the limitations imposed by the land lease it

was determined this was a special use property and the cost approach represented the only reasonable valuation method.

The improvements were described by Mr. Scott as most similar to a health club with different levels and quality of finish. Mr. Scott blended the cost estimates for the larger masonry building with 30' ceiling heights overall and estimates for the smaller frame retail and racquetball building to determine a basic structure cost for the improvements of \$3,782,894. Physical and functional depreciation was estimated at 17.9% and Mr. Scott adopted an external obsolescence estimate of 25%. The RCNLD estimate was \$2,158,984 to which was added \$100,000 in depreciated site improvements and \$442,388 in land value for a value opinion of \$2,700,000 (rounded).

Petitioner contends Respondent has incorrectly classified the property as a special use. The subject is primarily an industrial building and does not mirror the finish and quality of a health club. Petitioner notes health clubs are typically 8,000 square feet whereas the subject is more than 33,000 square feet. Petitioner is the only party that presented all the approaches to value and the only party that completed a value in exchange analysis.

Respondent contends the improvements were constructed for a special purpose and include interior finishes more suitable for human occupancy than for material storage. Use of the improvements for typical warehouse use is precluded by inadequate access to loading areas and the lack of a dock-high door. The entire property is also encumbered by a long-term land lease that allows the lessor to deny a future use. The lease, between related parties of the Broncos organization, extends to 2030.

Petitioner presented insufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax year 2013.

The Board focused upon Respondent's position in regard to the property use and the requirement to consider the value relative to current use and condition as of the valuation date. Both parties agreed the current use serves as a portion, but not all, of the total facility operated by the Denver Broncos organization. Testimony determined the property is under a long term lease. The terms of the lease provided in Respondent's Ex. C indicate the yearly payment, as of 1990, was \$250,000 per year. The payment is adjustable on each 5-year anniversary basis based upon the published Consumer Price Index. Any use that is not as the headquarters and practice facility of the team requires consent of the landlord. Consent may be withheld at the landlord's sole discretion. The Board was not persuaded there was a reasonable potential the landlord would chose to damage the existing synergy of the entire facility in favor of allowing a dissimilar industrial use. To the Board it is clear the property is designed for a special use and, under the terms of the existing land lease, the use must continue to the year 2030.

In light of the above land lease payment the Board turned to Petitioner's income approach. Petitioner's appraiser determined a net operating income for the subject of \$185,076 which was capitalized at an overall rate of 9.5%. The indicated value was then adjusted downward \$425,500 for reconfiguration costs to warehouse use and a final value of \$1,523,000. In contrast, the subject property actually commands \$250,000 (without consideration of any improvement in the CPI since

1990). Petitioner reported an average capitalization rate of 8.5% and concluded to 9.5% rate because of the subject's functional problems. As the Denver Broncos are the focus of regular media attention the Board can find no reason the risk in this investment is greater than an investment in a warehouse. Using a 9.5% capitalization rate and a \$250,000 net income results in a value opinion of \$2,631,579 and further supports Petitioner has not met the burden of proof.

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-nine 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-nine days after the date of the service of the final order entered).

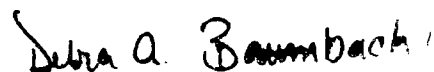
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 23rd day of July, 2014.

BOARD OF ASSESSMENT APPEALS

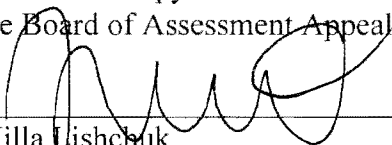


Debra A. Baumbach



Gregg Near

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



Milla Ushchuk

