

<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>GARY R. BANKS AND CHARYLENE C. BANKS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 62659</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 3, 2014, Diane M. DeVries and James R. Meurer presiding. Petitioners were represented by their son, Shawn Banks. Respondent was represented by Doug Edelstein, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**11080 Irma Drive, Northglenn, CO  
Adams County Schedule No. R0037724**

The property consists of an owner-occupied single story, industrial/showroom building containing 16,800 square feet and located in the City of Northglenn. The structure is a metal building, with a small concrete building to the rear of the main structure used for storage. Office finish is approximately 1,000 to 1,500 square feet, and the building was constructed in 1985. A portion of the building is warehouse space, and the remainder is office/showroom finish. There are two dock-high overhead doors in the building, and the structure is sprinklered. Site size is 2.43 acres reflecting a land-to-building ratio of approximately 6.30 to 1. The building is reported to be in fair to average condition.

Petitioners are requesting a value of \$430,080 for tax year 2013. Respondent provided an appraisal reflecting a value of \$604,800; however is deferring to the Board of Equalization's (BOE) assigned value of \$583,000 for tax year 2013.

Petitioners presented the following indications of value:

Cost:	Not Developed
Market	\$430,080
Income:	Not Developed

Petitioners' son, Mr. Shawn Banks provided four sale comparables. The sale prices of these sales ranged from \$203,800 to \$825,000 or \$20.04 to \$30.96 per square foot, and all of the transactions occurred during the statutory base period. No adjustments were applied to these comparables. The average of the sales prices equated to \$25.60 per square foot of gross building area. Mr. Banks applied this average of \$25.60 to the square footage of the subject of 16,800 to arrive at his estimated value of \$430,080.

Mr. Banks argued that sales used by Adams County in their market approach inflated the value of the subject. Mr. Banks indicated that the building had poor visibility, and the property was in fair condition and suffered from deferred maintenance. Significant items in need of repair consisted of the heating and cooling systems, roof, paving, floor cracks, and damage to the metal building resulting from vehicular impact. Mr. Banks further stated that there had been no major repairs to the building since purchase in 1996, that there was potential contamination on the property, and that the small concrete building on the property had no value.

Respondent presented the following indications of value:

Cost:	\$784,773
Market	\$621,096
Income:	\$604,800

Respondent's witness, Mr. Donald Delmendo a Certified General Appraiser with the Adams County Assessor's Office presented a cost approach based on data derived from Marshall Valuation Service reflecting a replacement cost for the subject of \$949,846. Mr. Delmendo estimated physical depreciation at 38% of cost new based on data from an age/life calculation resulting in a replacement cost new for the subject of \$588,904. Respondent's witness testified that he did not deduct any functional or economic obsolescence. The depreciated cost was then added to land value of \$195,869 or \$1.85 per square foot to reflect a value via the cost approach of \$784,773.

Mr. Delmendo also developed a market (sales comparison) approach and presented four comparable sales to support his opinion of value. Sale prices ranged from \$750,000 to \$1,530,000 prior to adjustments, or \$39.52 to \$97.06 per square foot. All of the comparable sales occurred in the statutory base period. Adjustments were made to the comparables for topography, physical condition, and market condition. Respondent's witness placed most weight on Sale No. 3, and arrived at an adjusted value of \$36.97 per square foot or \$621,096 via the market approach

In addition, Mr. Delmendo developed an income approach. Market rent was estimated at \$6.00 per square foot or \$100,800, vacancy and collection loss was estimated at 10%, and expenses were estimated at 15% of effective gross income, resulting in a net operating income of \$77,112. The net operating income was then capitalized at a 12.75% rate, including tax load, resulting in a value of \$604,800 via the income approach. Mr. Delmendo testified that he placed most weight on the income approach relative to his final opinion of value. No value was given to the small concrete building in the conclusion of value.

Mr. Delmendo testified that the comparables sales used by Petitioners were either not arm's length or not similar to the subject property. In addition, Mr. Delmendo indicated that he had considered the deferred maintenance in the building in his conclusion of value.

The primary areas of disagreement between Petitioners and Respondent consisted of the comparables used in the analysis, and the impact of the deferred maintenance on the overall value of the property.

Petitioners presented insufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that the variables used in Respondent's approaches to value were not sufficiently impeached by Petitioners to allow the Board to consider a change in the assigned value. The Board also finds Respondent's sales more similar and indicative of value for the subject property than Petitioners' sales, and that the condition and exposure of the property had been considered in the conclusion of 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-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).

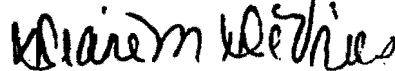
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 12th day of June, 2014.

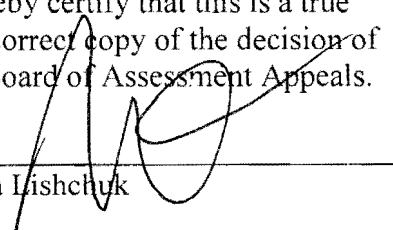
**BOARD OF ASSESSMENT APPEALS**



\_\_\_\_\_  
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.

  
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Milla Lishchuk