

<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>TT OF WESTMINSTER INC.,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63246</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 17, 2014, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Thomas E. Downey Jr. Esq. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**10391 Westminster Boulevard  
Westminster, CO 80020  
Jefferson County Schedule No. 214722**

The subject is a 43,080 square foot automotive dealership located on a 302,132 square foot site near the U.S. 36 and W. 104<sup>th</sup> Avenue interchange in Westminster, Colorado. The building was constructed in 2002 and contains 59% showroom/office space with the remainder utilized for auto service. The building is owner occupied and serves as a Mercedes Benz dealership. The structure has high quality finishes and special architectural features.

Petitioner presented the following indicators of value:

Market:	\$7,110,000
Cost:	\$6,640,000
Income:	Not applied

Petitioner is requesting an actual value of \$6,880,000 for the subject property for tax year 2013.

Petitioner’s witness, Francis Byrnes, a Certified Residential Appraiser, presented a market approach containing six comparable sales ranging in sale price from \$1,400,000 to \$5,762,500 and in size from 10,102 to 43,080 square feet. After adjustments were made, the sales ranged from \$95.02 to \$155.22 per square foot.

Mr. Byrnes described the subject as exposed to U.S. 36 traffic but outside of the auto dealership corridor. The building has above average finish and includes a mezzanine in the service area. Of the six sales reported, four were given primary consideration with Sale 2, a 27,733 square foot dealership constructed in 1965 and located in Boulder, at an adjusted unit value of \$153.27 per square foot, as the best. Mr. Byrnes considered the subject to be superior to all of the comparable sales and concluded to a unit value of \$165.00 per square foot and an aggregate value of \$7,110,000 (rounded).

Petitioner’s appraiser presented a cost approach to derive a market-adjusted cost value for the subject property of \$6,640,000. Mr. Byrnes considered four land sales ranging in sale price from \$700,000 to \$5,313,500 and in size from 59,903 to 655,071 square feet. After adjustments were made, the sales ranged from \$5.00 to \$13.26 per square foot. A unit value of \$10.00 per square foot of land area was adopted leading to a land value conclusion of \$3,020,000. Replacement cost new was developed by use of a state-approved cost estimating service. Using the “excellent” quality category applied to the “Complete Auto Dealerships” classification and after addition for site improvements and soft costs, a replacement cost new of \$9,636,000 was determined. Mr. Byrnes cited the detail and costs for a comparable auto dealership property as additional support for the cost estimate.

Mr. Byrnes then considered the sales used in the market approach. For all the sales except Sale 2, a purchase of a long term lease, the estimated land value was subtracted from the sale price. The remainder, representing the total improvement value, was then compared with the estimated replacement cost to determine depreciation from all causes. Physical depreciation was subtracted out of the total by application of an age-life estimate. The remainder, ranging from 27% to 53% of total depreciation, is attributed to functional/economic obsolescence. Mr. Byrnes adopted an estimate of 50% of RCN for functional/economic obsolescence attributable to the subject.

Petitioner’s cost approach is summarized as follows:

<b>RCN</b>	<b>\$9,050,000</b>
Physical Depreciation (age/life @ 10%)	(\$905,000)
Functional/economic obsolescence @ 50%	(\$4,525,000)
RCNLD	\$3,620,000
Land Value Estimate:	\$3,020,000
Value Opinion:	\$6,640,000

Mr. Byrnes considered the opinions from the two approaches and concluded that both should be given equal weight. Petitioner's final value conclusion was \$6,880,000.

Respondent presented the following indicators of value:

Market:	Not applied
Cost:	\$11,390,000
Income:	Not applied

Respondent assigned a value of \$11,390,000 for the subject property for tax year 2013 but is deferring to the value determined by the CBOE of \$8,920,000.

Respondent's appraiser, Ms. Darla K. Jaramillo, a Certified General Appraiser, declined to present either a market or income approach deeming the property to be a "special use." Ms. Jaramillo presented a cost approach to derive a market-adjusted cost value for the subject property of \$11,390,000. Six land sales were considered. The sales ranged in price from \$2,328,200 to \$9,147,600 and in size from 144,284 to 653,400 square feet. After adjustments were made, the sales ranged from \$12.84 to \$19.89 per square foot. A unit value of \$15.50 per square foot of land area was adopted and a land value of \$4,683,046 was determined. Replacement cost new was developed by use of a state-approved cost estimating service. Ms. Jaramillo separated the property into showroom and auto service center components. The showroom was classified as "excellent" quality and the service center as "good." Both components were considered "92% good." After deduction for physical depreciation to the structures and after applying a 25% physical depreciation estimate to the site improvements, a RCNLD value of \$6,709,852 was determined. Addition of the land value estimate produced a total value by the cost approach of \$11,390,000.

Petitioner contends the County has relied only upon the cost approach and has not properly considered economic or functional obsolescence applicable to this property. Overall declines in the automotive industry due to the recession resulted in a glut of vacant dealerships. Petitioner also pointed out the NW retail market remained in contraction during the valuation period. Respondent's land sales took place outside the 18-month base period and were not representative of current values. Petitioner cited Section 39-8-108(5)(b), C.R.S. and *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (2005) arguing that the Board should consider and accept the Assessor's mass valuation opinion specifically as it relates to the subject land value.

Respondent contends the auto-dealership market had bottomed out in 2009 and was beyond recovery by mid-2012. Many new dealerships are being built and the historical average has been one to two new facilities constructed each year. Respondent stated the subject's higher quality is not unusual and cited recent similar construction by two local dealers. Respondent also considers Petitioner's land value to be unsupported as the sales relied upon reflected a different highest and best use; needed significant improvement; were too small or were not similar in location.

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

The Board was unable to reconcile Petitioner's significant adjustment for economic obsolescence with the testimony of Respondent citing new construction. The Board also found it instructive to consider the cost new comparable presented by Petitioner for a new CarMax facility. This dealership was constructed at a reproduction cost new of \$191.35 per square foot, within 15% of Petitioner's estimate of RCN for the subject. A CarMax dealership is not the same as a Mercedes Benz dealership and the Board considers that some, if not all, of the 15% difference related in this comparison is due to quality. The Board then gave careful consideration to Respondent's testimony that new construction is on-going in this market and Petitioner's reference to the costs for a new dealership of lesser quality. The Board concluded there is insufficient evidence the subject suffers from significant economic obsolescence.

The Board agrees with Respondent the subject is a special purpose property and is swayed by Petitioner's argument that Respondent made no effort to apply a market approach. The 14<sup>th</sup> Edition of The Appraisal of Real Estate provides the following:

An opinion of market value requires that there be a market for the property. If there are no buyers for the subject property in its current use, an alternative use must be considered. Using the cost approach to value a special-use property where no market exists will usually overstate the market value of the property unless a deduction is made to reflect the lack of a market. (Emphasis added by the Board).

Respondent made no attempt to consider the market approach. The Board then looked to Petitioner's sales and determined sufficient information was available to test Respondent's cost approach. Sale 4, the most similar in size and most proximate of the sales, was to have \$1 million in upgrades following the purchase. That sizable investment to a 1970's era structure would be expected to bring the effective age of the sale to a similar range as the subject. Considering the additional investment, the adjusted indication for Sale 4 is \$182.16. At \$180.00 per square foot Sale 4 would have an adjusted indication of \$8,000,000 (rounded). When this figure is compared to Respondent's cost approach value of \$11,390,000, the value assigned by the CBOE of \$8,920,000 appears supportable and reasonable.

The Board was asked to specifically address Pet. Ex. 5, 6 and 7 as support for Petitioner's land value. The Board has considered the information presented and has determined the value opinions represent estimates derived by mass valuation techniques. The Board was also presented with individual land sales and site specific information by both parties for this hearing. Market data specifically obtained and confirmed for an individual valuation assignment was considered by the Board to have greater reliability and was weighted most heavily in the decision.

## **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 22nd day of May, 2014.



**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Gregg Near*

Gregg Near

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

*Milla Lishchuk*  
Milla Lishchuk