BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **CPUS BROOMFIELD MARKETPLACE LP,** v. Respondent: **BROOMFIELD COUNTY BOARD OF COMMISSIONERS.**	**Docket No.: 65183**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 19, 2015, Sondra W. Mercier, Debra A. Baumbach, and James R. Meurer presiding. Petitioner was represented by F. Brittin Clayton III, Esq. Respondent was represented by Karl Frundt, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2013 and 2014.

Testimony and exhibits from Docket No. 64745 were incorporated into this hearing.

The subject property is described as follows:

1170 US Highway 287 (Building D) Broomfield, CO
Broomfield County Schedule No. R1141956

The subject of this appeal consists of a multi-tenant, inline retail building located in the King Soopers anchored Broomfield Marketplace Retail Center in Broomfield CO. The center is located on the east side of Highway 287, south of Miramonte Blvd., and has frontage on Highway 287. The subject (Building D) contains 10,354 rentable square feet divided into six retail units, and was 100% occupied as of the date of value. Year of construction was 1999, construction is masonry block, and the building is reported to be in average to good condition overall. Site size approximates 2.36 acres, the building is zoned PUD through Broomfield, and there is cross-parking agreements with the remainder of the center.

The Broomfield Marketplace Retail Center, including Building D (the subject of this hearing) sold in June of 2012 for $15,750,000. The terms of the sale included cash, and the assumption of an existing mortgage.

Petitioner is requesting an actual value of $2,100,000 for the subject property for tax years 2013 and 2014. Respondent provided an appraisal reflecting a value of $2,801,500 for tax years 2013 and 2014; however, is deferring to the Board of Equalization's (BOE) assigned value of $2,658,870 for the referenced years.

Petitioner's first witness, Mr. Andrew Fox, a Broker with David, Hicks & Lampert Brokerage, LLC, has served as the leasing agent for the subject since the purchase in 2012, and testified regarding the physical characteristics and rentability of the subject. Mr. Fox stated that the property was located in an older section of Broomfield, was more isolated than the existing competition, and that the center and the subject building suffered from a general lack of visibility. Mr. Fox further testified that the comparables used by Respondent in the income approach were generally superior to the subject in terms of location and tenant quality.

Petitioner's second witness, Mr. Michael Van Donselaar with Duff and Phelps, LLC, presented an appraisal on the subject retail building. The appraisal reflected the following indicators of value:

Cost:	Not Developed
Market	$2,100,000
Income:	$2,097,421

Mr. Van Donselaar concluded to an indicated value of $2,100,000 or ±$203.00 per square foot for the subject property, with most weight given to his income approach.

Relative to his appraisal and during direct examination, Mr. Van Donselaar presented a market (sales comparison) approach that included four comparables ranging in sales price from $1,000,000 to $4,425,000 and in rentable area from 8,560 square feet to 19,319 square feet. A quantitative adjustment was applied to the comparable sales ranging from 17.88% to 66.55% based solely on differences in net operating income (NOI).

Mr. Van Donselaar also presented an income approach to derive a value of $2,097,421 or ±$203.00 per square foot for the subject property. Direct capitalization models employing triple net and full rents were used and consisted of gross income estimated at $18.50 per square foot, triple net based on the analysis of ten lease transactions, plus three lease transactions from the subject that transacted during the base period. The rental rates in the surveyed transactions averaged $17.50 to $18.00 per square foot. A long term vacancy and collection factor was estimated at 11% based on published sources, and non-reimbursable expenses in the triple net model were estimated at 5.47% of effective gross income or $161,160. The net operating income from each model was then capitalized at a 7.60% overall rate (the full service model was increased by the effective tax rate) which was derived from comparable sales and published surveys. Mr. Van Donselaar then averaged the indicated value from the two models resulting in an indicated value of $2,097,421 via the income approach. As noted, Mr. Van Donselaar placed most weight on the income approach relative to his final opinion of value.

Mr. Van Donselaar argued that the subject suffered from several deficiencies, specifically visibility and location, that the sale and rent comparables used by Respondent were not similar to the subject (e.g. anchored centers), that the adjustments to these comparables lacked support, and that the variables used in Respondent's income model were suspect. In addition, and as a test of reasonableness, Mr. Van Donselaar referenced the sale of The Broomfield Marketplace Retail Center, in June of 2012. Petitioner concluded that Respondent's assigned and appraised values exceeded what the market value of the subject building should be on a pro rata basis recognizing the sale of the center for $15,750,000. Based on Respondent's allocated value to the inline retail building versus the King Soopers building, the majority of value was assigned to the inline retail building inflating the price per square foot.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market	$2,796,621
Income:	$2,805,834

Respondent concluded to an indicated value of $2,801,500 for the subject property.

Respondent's witness, Mr. Robert D. Sayer, a Certified General Appraiser with Broomfield County Assessor's Office, presented a market approach that included five comparable sales ranging in sales price from $2,250,000 to $27,634,052, and in rentable size from 8,777 square feet to 123,456 square feet. The analysis was based on a combined square footage of 47,416 for the total inline space in the center. Adjustments to the comparable sales reflected differences in building square footage, vacancy, location, building quality, and presence of an anchor tenant(s). Three of the sales were not located in supermarket anchored centers. After adjustments were made, the sales ranged from $235.03 to $299.01 on a per square foot basis. Respondent placed equal weight on all of the adjusted comparables which reflected an average sales price of $263.54 and a median sales price of $250.67. Mr. Sayer reconciled the adjusted sales at $255.00 per square foot, and applied this per square foot value to the total square footage of the in-line space in the center. The report Summary indicated a value of $2,796,621 for the subject via the market approach.

Mr. Sayer also presented an income approach for the total in-line space in the center. A direct capitalization model was used and consisted of income estimated at $24.00 per square foot, triple net, plus expense recoveries of $469,110 for the total center. The determination of market rent was based on the analysis of six comparables with triple net rental rates that ranged from $21.00 to $26.76 per square foot as well as the rent roll for the in-line space at the center, which reflected average rents ranging from $6.00 to $25.45. A deduction for vacancy and collection loss was estimated at 8% based on the historical operation of the property; and expenses were estimated at $249,206 also based on historical data. The net operating income of $1,218,171 for the entire in-line space in the center was then capitalized at 10.04% overall rate (including effective tax rate) which was derived from market extraction and published surveys.

Mr. Sayer concluded to a value of ±$256.00 per square foot, and after applying this per square foot value to the square footage of the subject building, concluded to an indicated value of $2,805,834 via the income approach. Mr. Sayer placed equal weight on the market and income approaches relative to his final opinion of value.

The primary areas of disagreement between Petitioner and Respondent consisted of the comparability of the sale and rent comparables, and the variables (e.g. market rental rate, vacancy, expenses) used in the direct capitalization models of their respective income models. The witnesses also differed regarding the relationship of the sale of the center to the value of the subject building. Petitioner valued the subject as a freestanding property, while Respondent valued it as part of the larger center.

Given the gravity of the income approach used in each parties' analysis, a comparison of the key variables used in the direct capitalization models is found in the following table.

	Petitioner	Respondent
Square Feet	10,354 rentable	10,968 gross
Rent PSF	$18.50	$24.00
Vacancy/Collection	11.0%	8.0%
Overall Rate	7.60%	7.50% plus ETR

The sources and support for these variables is found in the parties' exhibits. The most significant difference between the two sets of metrics appears to be the estimate of the market rent ($18.50 v. $24.00) for the subject.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 and 2014 valuation of the subject property was incorrect.

The Board concludes that the income approach should receive primary consideration in the conclusion of value given that this approach best reflects the motivations of a typical investor. In addition, the lack of homogeneity among the sale comparables, and the limitations of supportable adjustments restricts the validity of the sales comparison approach. After review of the direct capitalization models provided by Petitioner and Respondent, and the income, expense, and rate estimates used in those models, the Board concludes that the following variables are most supportable in the conclusion of market value.

Rentable Square Feet	10,354
Rent PSF	$19.00
PGI	$196,726
Vacancy/Collection %	8.0%
Vacancy/Collection $	$15,738
EGI	$180,988
Expenses PSF	5.47%
Expenses	$9,900
NOI	$171,088
Overall Rate	7.50%
Indicated Value	$2,281,172
Round	$2,280,000
PSF	$220.20

The Board uses the rentable square footage provided by Petitioner in the analysis, given Petitioner's better access to the physical components of the building. The rental rate concluded by the Board at $19.00 is based on the actual operation of the property during the base period combined with what the Board considers the most supportable data found in both Petitioner's and Respondent's rental rate surveys. The 8% vacancy and collection loss is based on the historical operation of the building, and a review of published sources provided by the parties. The expenses at 5.47% of effective gross income were provided by Petitioner and were consistent with Respondent's projections. The overall rate of 7.5% was also relatively consistent with the parties' data. Given the triple net concluded leasing structure, no effective tax rate (ETR) addition was considered warranted.

Although the methodology is only used as a test of reasonableness, the Board concludes that any attempt to allocate the sales price of the center to the value of the individual buildings within that center is tenuous.

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 and 2014 valuation of the subject property was incorrect. The Board concludes that the 2013 and 2014 actual value of the subject property should be reduced to $2,280,000 which equates to approximately $220.00 per square foot.

ORDER:

Respondent is ordered to reduce the 2013 and 2014 actual value of the subject property to $2,280,000.

The Broomfield 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-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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 18th day of March, 2015.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Debra A. Baumbach

Debra A. Baumbach

James R. Meurer

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

Milla Lishchuk

65183