

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66126

Petitioner:

**AURORA CORNER, LLC C/O WALGREEN
COMPANY,**

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 29 and 30, 2016, Diane M. DeVries, Louesa Maricle and Amy J. Williams presiding. Petitioner was represented by Kendra L. Goldstein, Esq. and Barry Goldstein, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Petitioner's exhibits Nos. 1 through 8 were admitted, with objections by Respondent noted relative to Nos. 3 and 4. Respondent's exhibits identified as A through C, E and F were admitted. Respondent's Exhibit D was not admitted as the data and information contained within is outside of the statutory data collection period. Finally, all witnesses for both Petitioner and Respondent were admitted as experts.

Dockets Nos. 66119 and 66126 were consolidated for the purpose of the hearing because of overlapping testimony. However, the Board will issue a separate decision for each property. For descriptive purposes, the two Walgreens stores discussed in the following order will be identified as Iliff Avenue Walgreens (the subject of this order and Docket No. 66126) and Smoky Hill Road Walgreens (the subject of Docket No. 66119).

Subject property is described as follows:

**Walgreens Store No. 07021, located at
18620 E. Iliff Avenue, Aurora, CO 80013
Arapahoe County Schedule No. 1975-27-2-18-001**

The subject property consists of a single story, single tenant, free-standing retail building. The building is rectangular in shape. It includes a drive-through and a secure pharmacy area. The masonry brick/block building was constructed in 2002 and totals 14,490 square feet of rentable area on a 2.05-acre signalized corner lot at the intersection of Iliff Avenue and Tower Road.

Petitioner presented two appraisals indicating the following values:

Appraisal prepared by JRES Appraisal Services, William M. James, MAI

Sales Comparison:	\$1,940,000
Cost:	\$2,110,000
Income:	\$2,190,000

Appraisal prepared by Cushman & Wakefield, Christopher Nathan Baker, MAI

Sales Comparison:	\$2,100,000
Cost:	\$2,100,000
Income:	\$2,250,000

Petitioner is requesting an actual value of \$2,173,500 for the subject property for tax year 2015. Respondent assigned a value of \$2,832,000 for the subject property for tax year 2015.

Petitioner called Ms. Anna Pelts, Manager, Real Estate Tax Appeals, Walgreen Company as a witness. Ms. Pelts testified to the general business model of the Walgreen Company, wherein a developer is hired to acquire the desired site and build a drug store building to Walgreen's specifications which is then leased from the developer by Walgreen Company. The typical build-to-suit construction generally includes a free-standing building on a 1.5 to 2.0-acre site. The building typically contains a drive-through, loading dock, "drive around" design, few elevated windows, and a secured pharmacy area with fiber optics installed to allow connection between stores.

Ms. Pelts further stated that Walgreen does not finance any locations, rather the Company leases back from the developer. The leases generally have an initial 25-year term, with 5-year renewal options extending for 75 years. The developer manages the project and all costs, and in Ms. Pelts' experience, costs are generally above market with any subleases being less than the initial lease between the developer and Walgreens. Ms. Pelts cited three stores which were offered for lease by Walgreen after Walgreen bought out the initial lease or vacated the premises. These leases were identified as follows:

- 2727 Parker - \$12 to \$15 per square foot (building ultimately sold for \$113/sf)
- 6300 Colfax - \$14 to \$15 per square foot
- 7510 Gardler - \$10 per square foot

She considered all of the Walgreens stores to be in excellent locations. She also stated that the size of the stores, generally between 12,000 and 15,000 square feet, makes re-leasing the stores difficult as this size is considered large for most retailers.

Under cross examination, Ms. Pelts reported that her office was in Deerfield, Illinois and that she visited Colorado four to five times. She had not visited every store, rather visited selected stores as necessary for tax appeal purposes. Walgreen Company hires local advisors to determine the accuracy of property tax valuations. Ms. Pelts acknowledged that she did not research market rental rates or values in Arapahoe County and is not privileged to construction costs of Walgreens stores. She did not know the developer for the subject store. She stated that Walgreen Company owns about 20 percent of its stores, but each lease provides for a first right of refusal option to purchase by Walgreen Company. She testified that the Walgreens store located at 2727 Parker closed in 2007, but the lease term continued into 2013 and attempts were made to sublease this location. She further acknowledged that the lease prohibited subleasing to other pharmacy operators or to retailers with a certain percentage of sales of beauty products, specific percentage unknown. Under re-direct, Ms. Pelts testified that there were no restrictions on subleasing to general retailers.

William M. James, MAI, was then called as a witness. Mr. James reviewed the appraisal report for Iliff Avenue Walgreens which he and Stephen E. Ross, Associate Appraiser, prepared. Mr. James testified that he had utilized the Cost Approach, Sales Comparison Approach and Income Approach to value the Iliff Avenue property. However, he gave the Cost Approach minimal weight.

Mr. James, within the Land Valuation Section of his Cost Approach, utilized six sales ranging in sale price from \$6.01 to \$15.31 per square foot, concluding to a land value for the Iliff Avenue Walgreens of \$10.51 per square foot or \$940,000, rounded. Concluded reproduction cost of the improvements totaled \$2,606,185, or \$179.86 per square foot. To that, Mr. James applied a physical deterioration deduction of \$391,000 and a functional obsolescence deduction of \$1,042,000, for a total reproduction cost new less depreciation for Iliff Avenue Walgreens of \$1,173,185. Adding the land value produced a total estimate of value via the Cost Approach of \$2,110,000, rounded, or \$145.62 per square foot.

Within the Sales Comparison Approach for the Iliff Avenue Walgreens, Mr. James used six sales ranging in sale price from \$65.74 per square foot to \$173.85 per square foot. After adjustment, the range narrowed to \$129.83 per square foot to \$137.39 per square foot. Mr. James concluded to a value via the Sales Comparison Approach of \$1,940,000, rounded, or \$133.96 per square foot.

Mr. James' Income Approach for Iliff Avenue Walgreens utilized seven rent comparables which ranged between \$7.00 per square foot and \$24.00 per square foot, all but one leased on a triple net basis. After adjustment, the range narrowed to \$10.80 per square foot to \$14.85 per square foot. Mr. James concluded to a market rental rate of \$12.83 per square foot. He applied no vacancy/collection loss or additional expenses, calculating a net operating income of \$185,907. After applying a capitalization rate of 8.5 percent, Mr. James concluded to a value via the Income Approach of \$2,190,000, rounded, or \$151.14 per square foot.

Mr. James further testified that no actual construction costs had been provided to him. The witness stated that his communication had been through Petitioner's attorneys, who directed him to value both Iliff Avenue and Smoky Hill Road Walgreens stores as "second generation," "as is" buildings without consideration of the Walgreens tenancy. When questioned by the Board, Mr.

James conceded that his reports incorrectly referred to “reproduction cost” instead of “replacement cost.”

After considering the three approaches to value, Mr. James concluded to a final value for the Iliff Avenue property of \$2,100,000.

Mr. James affirmed that in his opinion, the terms “actual value” and “market value”, as used in the Iliff Avenue Walgreens and Smoky Hill Road Walgreens appraisals, are the same. He also stated that the Highest and Best Use of the two Walgreens properties is also the actual use of the properties, that of retail space.

During cross examination by Mr. Swartzendruber, Mr. James reported that Rent Comparable No. 1 is located on South Broadway, set back from the street and not on a corner. He indicated that Rent Comparable No. 3 was a national credit tenant and a lease of a new, build- to- suit building. Mr. James also testified that Rent Comparable Nos. 4 and 7 were not free standing buildings.

In response to Mr. Swartzendruber’s questions, Mr. James testified that Sale Comparable No. 1 was located along Interstate 25 but with limited visibility from same. It was not a corner location, but was a free standing building. Sale Comparable No. 2 was also not located at a signalized corner. Mr. James testified he was not aware that the building was actually 11,190 square feet with a full, unfinished basement, not 24,000 square feet as indicated in his report. Similarly, Mr. James also stated he was not aware that Sale Comparable No. 3 had a land area of 37,047 square feet, not 67,709 square feet as indicated in his report. When asked if he was aware of the atypical seller motivation of Sale Comparable No. 4, i.e. no motivation to sell due to ongoing lease payments by tenant, he responded that he was not. Mr. James further testified that Sale Comparable No. 5 did not have street frontage.

Mr. Swartzendruber then turned to Exhibit F, a 2013 appraisal of the Iliff Avenue Walgreens property completed by Mr. James. Mr. James was asked why the 2015 property tax appeal appraisal, Exhibit 1, had different actual age, effective age and remaining economic life for Iliff Avenue Walgreens than the earlier, 2013 appraisal. Mr. James responded that they should have been the same. Mr. James acknowledged other key differences:

Exhibit F - 2013 Appraisal

\$24.42 PSF Market Rent
\$25.40 PSF Contract Rent
6.75% Capitalization Rate
\$5,450,000 Market Value Indication, fee simple estate subject to a lease

Exhibit 1 – 2015 Property Tax Appeal Appraisal

\$12.83 PSF Market Rent
8.50% Capitalization Rate
\$2,190,000 Market Value Indication, fee simple estate

Finally, Mr. James testified that leased fee value equals fee simple value when market rent equals contract rent.

During re-direct testimony, Mr. James stated that his current appraisal of Iliff Avenue Walgreens represents more of a real estate investor value, less of a financial investor value. He stated that the credit worthiness of the tenant has a direct effect on the capitalization rate. A Cost Approach was not utilized in the 2013 appraisal. The 2013 appraisal was a leased fee appraisal while the 2015 property tax appeal appraisal is a fee simple appraisal.

Mr. James also testified to the differences between the appraisal report prepared for Iliff Avenue Walgreens, and the appraisal report prepared for Smoky Hill Road Walgreens. He stated that he used an 8% capitalization rate for Smoky Hill Road Walgreens where an 8.5% rate had been used for the Iliff Avenue subject. The Smoky Hill Road location, while within an area with average incomes double that of the Iliff Avenue location, had lesser traffic counts than Iliff Avenue according to Mr. James. He also testified that both locations produced fairly similar annual gross income.

Mr. James further testified that he disagreed with Petitioners' second appraiser, Mr. Baker's assessment that the Smoky Hill location was superior to the Iliff Avenue location. He originally had a perception that Smoky Hill Road was a superior location to Iliff Avenue, but upon deeper analysis he concluded they are very similar locations. In fact, the two stores are substantially similar enough that he utilized the same sales and the same rent comparables, with little difference in adjustment. Mr. James also testified that Smoky Hill Road Walgreens sold for \$6,000,000, or \$410.45 per square foot, in August of 2008.

Mr. Chris Baker, MAI, was then called as a witness. Mr. Baker testified that he prepared an appraisal report for both Iliff Avenue Walgreens and Smoky Hill Road Walgreens, appraising each property "as is," in fee simple estate with a retrospective date of value. While all three approaches to value were utilized, he gave limited weight to the Cost Approach.

Mr. Baker, within the Land Valuation Section of his Cost Approach for Iliff Avenue Walgreens, utilized six sales ranging in sale price from \$10.64 per square foot to \$20.92 per square foot, concluding to a land value for the subject of \$14.00 per square foot or \$1,250,000, rounded. Concluded replacement cost of the improvements totaled \$2,555,278, or \$176.35 per square foot. To that, Mr. Baker applied an age/life depreciation deduction of \$306,334, a functional obsolescence deduction of \$188,177, an economic obsolescence deduction of \$998,090 and a total site depreciation of \$194,750, for a total replacement cost new less depreciation (RCNLD) for Iliff Avenue Walgreens of \$867,927, or \$59.90 per square foot. Adding the land value produced a total estimate of value via the Cost Approach of \$2,100,000, rounded, or \$144.93 per square foot.

Within the Sales Comparison Approach for Iliff Avenue Walgreens, Mr. Baker used seven sales ranging in sale price from \$110.97 per square foot to \$216.63 per square foot. After adjustment, the range narrowed to \$119.05 per square foot to \$156.15 per square foot. Mr. Baker concluded to a value via the Sales Comparison Approach of \$2,100,000, rounded, or \$144.93 per square foot.

Mr. Baker's Income Approach for Iliff Avenue Walgreens utilized six rent comparables which ranged between \$12.75 per square foot and \$16.50 per square foot, all being leased on a triple net basis. Mr. Baker concluded to a market rental rate of \$15.00 per square foot. He applied a 7% vacancy/collection loss, a 3% management expense and a 2% deduction for other expenses, calculating a net operating income of \$192,029, or \$13.25 per square foot. After applying a capitalization rate of 8.5%, Mr. Baker concluded to a value via the Income Approach of \$2,250,000, rounded, or \$155.28 per square foot.

After considering the three approaches to value, Mr. Baker concluded to a final value for the Iliff Avenue property of \$2,250,000.

On cross-examination, Mr. Baker testified that Sale Comparable Nos. 1, 2 and 7 were sales to investors of newly constructed, build-to-suit buildings with long term leases in place. He also stated that Rent Comparable Nos. 1, 5 and 6 were leases of newly constructed, build-to-suit, buildings.

Mr. Baker testified that the same land sales were used for both the Iliff Avenue and Smoky Hill Road Walgreens, with adjustment to reflect the superior Smoky Hill location of the subject. The same improved sales were also used, again adjusting to reflect the superior Smoky Hill location and corresponding potential to generate greater income. Finally, Mr. Baker noted that the same rent comparables were utilized, though a higher net rent and lower capitalization rate were concluded as appropriate for Smoky Hill Road Walgreens store valuation.

Respondent presented the following indicators of value for Iliff Avenue Walgreens:

Sales Comparison:	\$2,830,000
Cost:	\$3,010,000
Income:	\$2,840,000

Respondent's attorney, Mr. Swartzendruber, called Mr. Ron Gazvoda, Arapahoe County Senior Commercial Appraiser, as a witness for Respondent. Mr. Gazvoda testified that he prepared an appraisal of the fee simple estate of Iliff Avenue Walgreens wherein he concluded to a value of \$2,850,000. He stated that Iliff Avenue Walgreens is an occupied, Triple A tenant building. He further testified that corner sites, due to scarcity, have a premium attached; corner sites attract an occupant that requires higher traffic counts and visibility on multiple sides. Specifically, he stated, a tenant such as Goodwill, is not found at these corner locations as they do not need the traffic and visibility and will not pay the premium required for same. Mr. Gazvoda went on to discuss Iliff Avenue Walgreens Highest and Best Use analysis, concluding that its Highest and Best Use was for a free-standing, single tenant retail building.

Mr. Gazvoda indicated that he utilized all three approaches to value within his appraisal analysis of Iliff Avenue Walgreens, and he, unlike the previous two appraisers, believes the Cost Approach has relevance. In fact, he asserted that the Cost Approach necessitated the fewest adjustments, and therefore, the greatest weight was placed on this approach. Within the Cost Approach, he did not utilize actual Walgreens construction figures which would have included business specific components. Rather, he used Marshall & Swift cost figures for a typical drug store

building. He also did not agree that a change in Highest and Best Use should be considered. The Iliff Avenue Walgreens site is appropriate for a high quality tenant that needs the quality location. He testified that economic and functional obsolescence were not present, physical depreciation only. High windows are appropriate for many uses and no adjustment is necessary for a single entrance when the Highest and Best Use is for a single tenant building.

Within the Land Valuation Section of his Cost Approach for Iliff Avenue Walgreens, Mr. Gazvoda utilized five sales ranging in sale price from \$8.49 per square foot to \$20.70 per square foot, concluding to a land value of \$12.25 per square foot or \$1,090,000, rounded. Concluded replacement cost of the improvements totaled \$2,465,481 or \$170.15 per square foot. To that, Mr. Gazvoda applied a physical depreciation deduction of \$541,052, for a total replacement cost new less depreciation of \$1,924,428, or \$132.81 per square foot. Adding the land value produced a total estimate of value via the Cost Approach for Iliff Avenue Walgreens of \$3,010,000, rounded, or \$207.73 per square foot.

Mr. Gazvoda reviewed the Sales Comparison Approach for Iliff Avenue Walgreens and the adjustments applied to sales selected. Mr. Gazvoda used five sales ranging in sale price from \$191.21 per square foot to \$405.87 per square foot. After adjustment, the range narrowed to \$190.40 per square foot to \$206.99 per square foot. Mr. Gazvoda concluded to a value via the Sales Comparison Approach of \$2,830,000, rounded, or \$195.00 per square foot.

He then reviewed the Income Approach for Iliff Avenue Walgreens. Within the Income Approach, he concluded to a \$16.50 per square foot market rental rate, a 5% vacancy/collection loss and deducted 3% for additional owner expenses, calculating a total net operating income of \$220,317, or \$15.20 per square foot. Finally, he concluded to a 7.75% capitalization rate, producing a value via the Income Approach of \$2,840,000, rounded, or \$196.00 per square foot.

After considering the three approaches to value, Mr. Gazvoda concluded to a final value for the Iliff Avenue property of \$2,850,000.

During the cross examination, Mr. Gazvoda stated that build-to-suit sales can represent open market transactions; that lease back sales can represent market transactions and that some build-to-suit leases are financing mechanisms. Further, Mr. Gazvoda contended that the Cost Approach can be reliable for a 12-year-old building so long as only physical depreciation is present. He also opined that the \$600,000 spent to retrofit the Walgreens store located at 2727 Parker, now occupied by Mo's BBQ, did not reflect obsolescence, as neither the exterior nor entrance had been modified.

Further, Mr. Gazvoda acknowledged that Sale No. 4 was not a retail property, but was a bank building. He also acknowledged that Sale Nos. 1 and 2 were sales of build-to-suit buildings with leases in place that were based, in part, on cost to construct the building. Sale No. 5 was also a build-to-suit building sale. Mr. Gazvoda testified that each of the sales had been marketed as follows: Sale No. 1 had an offering prospectus distributed, no broker involved; Sale No. 3 was constructed after a competitive bid process for land and construction; Sale No. 4 was marketed by a local broker; Sale No. 5 had an offering prospectus distributed.

In addition, Mr. Gazvoda testified that a typical user of Iliff Avenue Walgreens or Smoky Hill Road Walgreens would be drug stores, banks, and urgent care providers. Mr. Gazvoda stated that the Iliff Avenue Walgreens rental rate would appropriately be higher than the average rental rate in the Denver Region because the Iliff Avenue location is better than average. Mr. Gazvoda testified that the leased fee sale of Iliff Avenue Walgreens was at a 7.75% capitalization rate and that Sale No. 5, the sale of Big 5 Sporting Goods, sold at a 9.49% capitalization rate.

Mr. Swartzendruber, under re-direct, asked Mr. Gazvoda if he had an opinion regarding the higher capitalization rate of the Big 5 Sporting Goods sale. Mr. Gazvoda testified that the Big 5 Sporting Goods sale was capitalized at a higher rate because its location was poor and the lease had been signed in 2008. He further testified that a weakness of the Sales Comparison Approach was the lack of comparable sales and he felt that the rent comparables were most relevant and wished that he had utilized the information of the Ulta Beauty lease as reported in one of Petitioner's appraisals.

Mr. Gazvoda went on to testify that as compared to Iliff Avenue Walgreens, Smoky Hill Road Walgreens required more ornamentation of its exterior appearance. Additionally, the Smoky Hill Road location is adjacent to a destination regional mall and the highest value retail in the area borders Smoky Hill Road. Mr. Gazvoda testified that the Smoky Hill area still has development areas available and overall the future potential is considered superior. As compared to his appraisal of Iliff Avenue Walgreens, the Smoky Hill Road Walgreens appraisal utilized different land sales. However, the same improved sales and same rent comparables were utilized, all adjusted to reflect the superior location of Smoky Hill Road.

Mr. Gazvoda testified that the two buildings were similar in size, but Smoky Hill Road Walgreens signage and façade were superior to that of Iliff Avenue Walgreens. Both interiors were almost identical, leaving location, age and construction quality as the major differences. The Smoky Hill Road location and site size make Smoky Hill Road Walgreens a more valuable location and its adjacency to Southlands has a positive impact.

Mr. Marcus Scott was called as a witness for Respondent. Mr. Scott testified to the changes that have been made to the Assessor's Reference Library. Essentially, assessors are directed to value property in fee simple estate requiring the use of market vacancy rates, market capitalization rates and market lease rates and terms. Also, previously Colorado was a Value in Use state. However, Colorado is now a Highest and Best Use state, meaning that property is to be valued after determination of its Highest and Best Use. Under cross examination, Mr. Scott stated that the Cost Approach serves a purpose even if it is not heavily relied upon by market participants.

Ms. Goldstein called Mr. James as a rebuttal witness. Mr. James testified that clients almost never ask him to prepare a Cost Approach, and additionally, appraisers only use the Cost Approach as their primary approach five percent of the time. He also testified that in his opinion Respondent's appraisal reports utilized credit tenants. Further, the sale of the bank building used by Respondent's appraiser was a poor comparable in that it was too far away, had a more substantial drive up and the buyer paid more for a particular location. Finally, he added that Respondent's appraisals did not analyze and adjust the rent comparables as rigorously as he did within his appraisals.

Respondent assigned an actual value of \$2,832,000 to the subject property for tax year 2015.

Petitioner presented insufficient probative evidence and testimony to prove that the subject Iliff Avenue Walgreens real property was incorrectly valued for tax year 2015.

In all the appraisal analysis presented, it was clear that the subject was valued in fee simple estate, appropriately disregarding the subject's "as is" leased fee estate. The Board also concludes from the analysis presented that the Highest and Best Use of the subject property is for development of a free standing retail building appropriate for use by a national credit tenant. As stated in the Assessor's Reference Library, "Unless otherwise directed by law, valuation for ad valorem property taxation should be based on a property's highest and best use." ARL, Vol. 3, Ch. 2, Page 2.3. Because the subject location and building quality is supportive of a national credit tenant, the Board was not persuaded that use of "second generation" sales and lease data was appropriate. Evidence and testimony presented indicated that when Walgreens abandons a store, it no longer considers that location to be economically viable. This calls into question the abandoned location's viability for use by other national credit tenants and, therefore, the store's comparability to the subject, which is still occupied by Walgreens. Additionally, use restrictions typically in place for the life of the Walgreens lease further complicate consideration of Walgreens store subleases.

The Board rejects the argument that Walgreens stores are physically so unique as to have significant functional and economic obsolescence present, particularly when replacement cost is used. Certainly some modifications would have to be made if switching between one national credit retail tenant and another national credit retail tenant, but this is typical of similar retail buildings. Specific to 2727 Parker, the Walgreens store converted to Mo's BBQ, evidence and testimony presented did not credibly support Petitioner's claim that the \$600,000 spent on conversion was all due to functional obsolescence rather than deferred maintenance and new tenant finish.

Mr. Gazvoda's testimony regarding the use of the Cost Approach is found to be credible and persuasive, particularly as Respondent's Cost Approach did not include building upgrades unique to Walgreens. The Board agrees that the use of the Cost Approach for the subject, when replacement cost is calculated, not reproduction cost, and physical depreciation is deducted, is helpful in establishing a test of reasonableness and a "not to exceed" value for property tax purposes. However, considering the subject's current use is its Highest and Best Use, additional functional and economic obsolescence deductions are inappropriate.

Considering that Smoky Hill Road Walgreens is newer and of higher quality construction than Iliff Avenue Walgreens, the following comparison provides further support that the functional and economic obsolescence deductions by Petitioner's appraisers are applied erroneously. Both Mr. James and Mr. Baker concluded to an RCNLD for the Smoky Hill Road building which is less than the Iliff Avenue building, detailed as follows:

James Appraisal

RCNLD Smoky Hill Road Appraisal -	\$72.28/SF, or \$1,056,612
RCNLD Iliff Avenue Appraisal -	\$80.97/SF, or \$1,173,185

Baker Appraisal

RCNLD Smoky Hill Road Appraisal -	\$46.27/SF. or \$676,363
RCNLD Iliff Avenue Appraisal -	\$59.90/SF. or \$867,927

The concluded RCNLD within both appraisals suggests that the Smoky Hill Road building is nearing the end of its economic life. The land valuation of Smoky Hill Road being 51% of the overall Cost Approach value in Mr. James' report and 71% in Mr. Baker's report. Considering the Smoky Hill Road building is relatively new and being used in accordance with its highest and best use, the calculated RCNLD is illogical. The error in logic becomes more pronounced if the more credible land valuation presented by Respondent is utilized. Respondent's land valuation for Smoky Hill Road Walgreens was the only analysis to consider land sales within the subject's immediate neighborhood and supported a value of \$2,050,000. Adding this land value to the calculated RCNLD for the Smoky Hill Road property indicates that the land value now consumes 65% of the total value based on Mr. James' RCNLD and 75% of the total value based on Mr. Baker's RCNLD.

At the core of the appraisal problem for the subject is selection of an appropriate market, net rental rate and application of the appropriate market based capitalization rate. The subject's contract, triple net lease rate is \$23.75 per square foot. However, this is considered an above market lease rate, representative of a lease which was negotiated prior to construction, inclusive of non-realty considerations and which has a term of at least 25 years, much longer than similar build-to-suit leases in the area. Considering the subject's quality and location, the Board agrees it is appropriate that the net rental rate fall above the average asking rental rate for the subject's Southeast Suburban market area as presented in Mr. Baker's appraisal, above \$15.08 per square foot. The Board found Respondent's income approach analysis most persuasive in valuing the subject. Overall, Mr. Gazvoda presented the most credible evidence and supporting analysis regarding market rents and a capitalization rate appropriate for use in valuation of the fee simple estate of the subject's land and building.

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 17th day of June, 2016.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

Diane M. DeVries

Louesa Maricle

Louesa Maricle

Amy J. Williams

Amy J. Williams

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

Milla Lishchuk

Milla Lishchuk