

<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>NANCY LETMAN PROPERTIES LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 66821</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 1, 2016, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Mr. Steve Letman. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to the subject's value derived by the market approach of \$125.00 per square foot. They also stipulated to the admittance of Kathryn Dowling as an expert witness and to the admittance of Petitioner's Exhibit 1 and Respondent's Exhibit A.

Subject property is described as follows:

**16 Inverness Place East #A, Englewood, Colorado  
Arapahoe County Schedule No. 031934117**

The subject is a single story office building that was built in 1980 and remodeled in 2006. It is one of five buildings at 16 Inverness Place East, and contains a total of 5,662 square feet. The building is currently operating as executive office space, with tenants sharing conference room, kitchen and restroom areas. The building could be demised as two units, with a single entry point.

Petitioner is requesting an actual value of \$610,400 for the subject property for tax year 2015. Respondent assigned a value of \$727,900 for the subject property for tax year 2015 but is recommending a reduction to \$710,000.

Petitioner presented the following indicators of value:

Market:	\$707,800
Cost:	Not applied
Income:	\$383,000

Petitioner's witness, Mr. Steve Letman, presented a market approach consisting of six comparable sales ranging in sale price from \$730,000 to \$817,500 and in size from 3,500 to 6,540 square feet to indicate an unadjusted value range of \$115.14 to \$142.22 per square foot. The sales indicated an average of \$125.91 and a median of \$125.00 per square foot and all of the sales were purchased for owner occupancy. With no adjustments made, Petitioner concluded to a value of \$125.00 per square foot or \$707,800 for the subject based on the median and average indicated by the sales.

Petitioner presented an income approach to derive a value of \$383,000 for the subject property. Actual average rental income was identified as \$14.85 per square foot, based on a combination of month-to-month and three year leases. Mr. Letman also presented rent, vacancy and overall rate indicators from a variety of investor surveys and market reports. He concluded to a market rent of \$15.00 per square foot. Vacancy of 10% and expenses (before property taxes) of \$6.60 per square foot were deducted. The net income was capitalized at a tax loaded rate of 10.20% (capitalization rate of 7.0% plus effective tax rate of 3.20%) to indicate a value of \$383,000 using the income approach.

The cost approach was considered, but not deemed by Mr. Letman to provide a significant indication of value for the subject primarily due to age.

Mr. Letman contends that the market for the subject would be both owner-occupants and investors. He applied 70% of the weight to the market approach and 30% to the income approach to derive a value of \$610,400 for the subject for tax year 2015.

Respondent presented the following indicators of value:

Market:	\$710,000
Cost:	Not applied
Income:	\$541,500

Respondent considered all three approaches to value, but also determined that the cost approach was irrelevant in valuing the subject. Respondent's witness, Ms. Kathryn Dowling, Commercial Appraiser with the Arapahoe County Assessor's Office presented a market approach consisting of five comparable sales ranging in sale price from \$400,000 to \$817,500 and in size from 2,587 to 6,395 square feet to indicate a value range of \$118.91 to \$154.62 per square foot prior to adjustment. After adjustments were made, the sales ranged from \$118.91 to \$131.43 per square foot. Giving the greatest weight to sale 3 as most similar to the subject, Ms. Dowling also concluded to a value of \$125.00 per square foot, rounding to \$710,000 for the subject.

Respondent used the income approach to derive a value of \$541,500 for the subject property. Respondent applied a rental rate of \$19.00 per square foot based on leases signed in similar sized buildings in the Inverness area. Vacancy of 10% and expenses of \$6.16 per square foot were deducted to produce net operating income of \$60,913. Based on an analysis of alternative investments, real estate investor surveys, and rates extracted from the market, an overall capitalization rate of 8.0% was concluded, with an additional 3.25% added for the effective tax rate, for a total rate of 11.25% applied.

Respondent contends that the most likely buyer of the subject is an owner occupant, and concluded to a value based on the market approach, at \$710,000.

Respondent assigned an actual value of \$727,900 to the subject property for tax year 2015, but is recommending a reduction to \$710,000 based on the concluded value.

Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to Respondent's recommended value. Valuation for *ad valorem* property taxation is to be based on a property's highest and best use, which was affirmed by the Colorado Supreme Court in *Board of Assessment Appeals, et al, v. Colorado Arlberg Club*, 762 P.2d 146 (Colo. 1988) In that case, the court quoted the American Institute of Real Estate Appraisers, referencing *The Appraisal of Real Estate* 33, 1983, 8<sup>th</sup> Edition: "In the market, the current value of a property is ...based on what market participants perceive to be the future benefits of acquisition."

The sales presented by both parties indicate that small office properties like the subject are primarily purchased for owner occupancy. The lower values indicated by the income approaches presented by both Petitioner and Respondent indicates that purchase of the subject by an investor is not consistent with the theory of highest and best use. Petitioner presented insufficient legal or market reason to support that any percentage of value should be based on the income approach. Both parties applied the same value of \$125.00 per square foot within their respective market approaches, resulting in a nearly identical value within that approach.

The Board concludes that the 2015 actual value of the subject property should be reduced to \$710,000.

**ORDER:**

Respondent is ordered to reduce the 2015 actual value of the subject property to Respondent's recommended value of \$710,000.

The Arapahoe County Assessor is directed to change his/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 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).

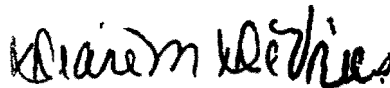
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 15th day of June, 2016.

**BOARD OF ASSESSMENT APPEALS**

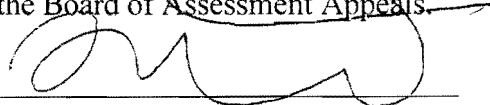


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Diane M. DeVries



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Sondra W. Mercier

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

