

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

Docket No.: 66823

Petitioner:

LETMAN PROPERTIES LLC,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

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.

Petitioner stipulated to the admittance of Kathryn Dowling as an expert witness. The parties also stipulated to the admittance of Petitioner's Exhibit 1 and Respondent's Exhibit A. Petitioner's opening statement from the prior hearing in Docket 66821 was incorporated for purposes of the hearing.

Subject property is described as follows:

**68 Inverness Lane East #103, Englewood, Colorado
Arapahoe County Schedule No. 034331361**

The subject is an office condominium in a building that was completed in 2002. The subject is a 795-square foot first floor unit. It is finished as a typical office space, with three private offices, a small storage room, reception area, meeting area and wet bar. Petitioner purchased the property in December 2014 for \$135,000. The subject unit is leased, but Petitioner owns and occupies the adjacent unit.

Petitioner is requesting an actual value of \$104,200 for the subject property for tax year 2015. Respondent assigned a value of \$139,125 for the subject property for tax year 2015.

Petitioner presented the following indicators of value:

Market:	\$125,600
Cost:	Not applied
Income:	\$54,100

Petitioner's witness, Mr. Steve Letman, presented a market approach consisting of five comparable sales ranging in sale price from \$100,000 to \$210,000 and in size from 564 to 1,172 square feet to indicate an unadjusted value range of \$125.47 to \$179.18 per square foot. All of the sales were purchased for owner occupancy, and all were of units located in the same building as the subject. Sale 3 was Petitioner's purchase of the subject unit in December 2014 for \$135,000 or \$169.81 per square foot. Petitioner adjusted sales 1 and 5 upward by 20% to reflect improving market conditions, resulting in a value range of \$150.57 to \$212.77 per square foot. Mr. Letman concluded to a value of \$158.00 per square foot or \$125,600 based primarily on the average indicated by sales 1, 2, and 3.

Petitioner presented an income approach to derive a value of \$54,100 for the subject property. Mr. Letman presented rent, vacancy and overall rate indicators from a variety of investor surveys and market reports. He concluded to a market rent of \$16.60 per square foot, consistent with the current lease to the tenant, Interop. Vacancy of 10% and expenses (before property taxes) of \$8.00 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 \$54,100 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 \$104,200 for the subject for tax year 2015.

Respondent presented the following indicators of value:

Market:	\$143,000
Cost:	Not applied
Income:	\$92,700

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 six comparable sales ranging in sale price from \$100,000 to \$239,939 and in size from 564 to 1,236 square feet to indicate a value range of \$125.47 to \$202.10 per square foot prior to adjustment. The analysis included three sales from the same building as the subject. After adjustments were made, the sales ranged from \$125.47 to \$194.13 per square foot. Ms. Dowling concluded to a value of \$180.00 per square foot, or \$143,000 based on the market approach.

Respondent used the income approach to derive a value of \$92,700 for the subject property. Respondent applied a rental rate of \$17.00 per square foot based on leases signed for similar sized units in the Inverness area. Vacancy of 10%, owner's association fees of \$2.00 per square foot and additional expenses of 5% were deducted to produce net operating income of \$9,965. Based on an analysis of alternative investments, real estate investor surveys, and rates extracted from the market, an overall rate of 7.50% was concluded, with an additional 3.25% added for the effective tax rate, for a total rate of 10.75% 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 \$143,000.

Respondent assigned an actual value of \$139,125 to the subject property for tax year 2015.

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, 8th 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 indicate 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.

Petitioner presented five comparable sales, all units located in the same building as the subject. The only adjustment applied was for improvement in market conditions, with an upward adjustment of 20%. After adjustment, Petitioner's sales indicated a range of \$150.57 to \$212.77 per square foot. Although Mr. Letman reconciled to an average of three of the sales, the Board finds the actual purchase of the subject unit in December 2014 for \$135,000 or \$169.81 per square foot to be a compelling indication of value. This value is also within the adjusted range indicated by Respondent's sales.

The Board concludes that the 2015 actual value of the subject property should be reduced to \$135,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$135,000.

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

Diane M. DeVries

Diane M. DeVries

Sondra W. Mercier

Sondra W. Mercier

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

Milla Lishchuk

