

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

Docket No.: 67858

Petitioner:

BATTERBERRY LAND GROUP LLC,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 29, 2016, James R. Meurer, MaryKay Kelley and Sondra W. Mercier presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to admittance of Mr. Stephen M. Snyder, Certified General Appraiser with the Douglas County Assessor's Office and Mr. Todd J. Stevens, Stevens & Associates, Inc. as expert witnesses.

Subject property is described as follows:

**5885 New Abbey Lane, Castle Rock, CO 80108
Douglas County Schedule No. R0472309**

The subject is a daycare facility of approximately 10,229 square feet in size. It is situated on a 2.20-acre site. The building was completed in 2007.

Petitioner is requesting an actual value of \$1,600,000 for the subject property for tax year 2015. Respondent assigned a value of \$2,461,584 for the subject property for tax year 2015.

Petitioner presented the following indicators of value:

Market:	\$1,636,640
Cost:	\$1,555,081

Income: Not applied

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates Cost Reduction Specialists, Inc., presented a market approach consisting of three comparable sales ranging in sale price from \$2,200,000 to \$4,085,000 and in size from 11,080 to 15,488 square feet, representing a range in value of \$182.74 to \$275.27 prior to adjustment. Adjustments were made for location and economic characteristics. After adjustments were made, the sales ranged from \$164.47 to \$220.22 per square foot. Mr. Stevens concluded to a value of \$160.00 per square foot or \$1,636,640 based on the market approach.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,555,081. Three land sales were used to value the subject site at a value of \$5.00 per square foot or \$479,160. The structure was valued at \$1,003,932 after a deduction of 10% for depreciation. Depreciated yard costs of \$71,989 were also added to bring the total value to \$1,555,081 via the cost approach.

Petitioner considered an income approach to value the subject; however, a lack of lease information for comparable daycare centers was cited for its omission. Based on both the market and the cost approaches, Mr. Stevens concluded to a value of \$1,600,000 equal to \$156.42 per square foot.

Petitioner argued that the subject was not valued equally to other similar properties. Petitioner presented 2015 assessed values for ten daycare centers in addition to that of the subject. The ten properties had assessed values ranging from \$134.00 to \$199.00 per square foot compared to the subject, valued at \$241.00 per square foot. As further evidence, Petitioner identified the 2015 assessed value for each of the comparable sales used to value the subject in the market approach. This information indicated a disparity between the actual selling price during the base period and the assessment as follows:

Sale Number	Subject	Sale 1	Sale 2	Sale 3
PPSF Sales Price*		\$263.75	\$182.74	\$275.27
2015 Assessment PSF	\$240.65	\$182.80	\$148.92	\$185.31

*prior to adjustment

Respondent presented the following indicators of value:

Market: Not applied
Cost: \$2,461,584
Income: Not applied

Mr. Snyder testified on behalf of Respondent. During the mass appraisal process, the cost approach was used to value all daycare properties in Douglas County using the Computer Assisted Mass Appraisal (CAMA) system, with no adjustments made after May 1, 2015. CAMA system is used to determine value based solely on modeling. Mr. Snyder presented a list containing seven land sales that were modeled to determine land value based on a wide range of values, from \$9.55 to

\$20.18 per square foot, with a mean of \$12.86 and a median of \$10.30 per square foot. The land was valued at \$10.00 per square foot or \$718,740, with no adjustments made to the comparable land sales. The improvements (site and building) were valued at \$1,742,844 after a deduction for depreciation. The value indicated by the cost approach was \$2,461,584 (\$240.65 per square foot) using the CAMA system. That is the value that Respondent assigned to the subject property for tax year 2015.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2015 valuation of the subject property was incorrect. “A taxpayer’s burden of proof in a BAA proceeding is well-established: a protesting taxpayer must prove that the assessor’s valuation is incorrect by a preponderance of the evidence in a de novo BAA proceeding.” *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005).

After consideration of all three approaches to value, Petitioner provided the market and cost approaches to value the subject, giving consideration to both approaches to conclude to a value of \$1,600,000. While the income approach was considered, the Board was convinced by evidence and testimony that available lease information was not likely representative of market, but rather a financing vehicle.

Petitioner presented three sales of daycare centers that transacted within the statutory base period. Adjustments ranging from 10% to 30% were applied, and a value was determined based on the sales. However, Mr. Stevens concluded to a value below the range indicated, with insufficient explanation. Sale 2 received the least adjustment, indicating a value of \$164.47 per square foot, at the lower end of the range.

Three land sales were analyzed to determine the value of the subject site within the cost approach. Two of the three sales were from the prior base period, with no adjustment for market conditions (time trending) made. The Board finds Petitioner’s concluded land value to be questionably low based on the evidence presented by both parties. Further, there was conflicting evidence presented at the hearing that called into question the quality and condition rating of the subject, which affected the value determined in the cost approach. Although Petitioner’s cost approach was found by the Board to be less reliable than Petitioner’s market approach, it supported Petitioner’s contention that Respondent’s value was in error.

Respondent’s Exhibit G included the data applied within Respondent’s mass appraisal system. While mass appraisal is an acceptable methodology for valuing property pursuant to the Assessor’s Reference Library the Board did not find the summary of data provided by Respondent convincing. Respondent listed seven land sales that were analyzed using the CAMA system to value the site, with no property specific adjustments applied. The cost analysis was completed using the CAMA modeling, with no property specific adjustment made. The Board finds Respondent’s documentation and testimony less credible.

The evidence submitted by Petitioner was sufficient to convince the Board that Respondent’s assigned value was incorrect. Petitioner’s evidence was also sufficient to convince the Board of the subject property’s value for tax purposes. See *Sampson*, 105 P.3d at 208 (The BAA members’

expertise enables them to determine from the evidence presented by the taxpayer whether the county's valuation is incorrect. The taxpayer's evidence may also be sufficient to further establish the subject property's value for tax purposes). The Board concludes that the 2015 actual value of the subject property should be reduced to \$1,690,000 based on a unit value of \$165.00 per square foot.

Petitioner argued that the subject was not valued equally to other similar properties. While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under statute or the constitution. *See Crocq Company v. Arapahoe County Bd. of Equaliz.*, 813 P.2d 768 (Colo. App. 1990); *Bishop v. Colo. Bd. of Assess. Appeals*, 899 P.2d 251 (Colo. App. 1994).

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$1,690,000.

The Douglas 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).

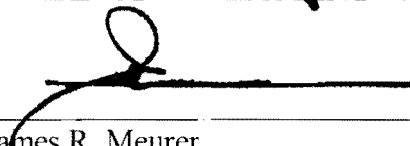
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

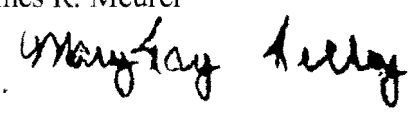
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.


Section 39-8-108(2), C.R.S.

DATED and MAILED this 3rd day of August, 2016.

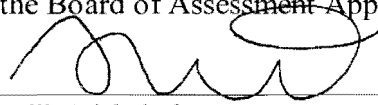
BOARD OF ASSESSMENT APPEALS


James R. Meurer


MaryKay Kelley


Sondra Mercier

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


Milla Lishchuk

