

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

Docket No.: 68097

Petitioner:

AUTOMOTIVE SERVICES INC.,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 20, 2016, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to the admission of Petitioner's Exhibit 1, Respondent's Exhibit A and to the qualifications of the expert witnesses. The parties disagreed about the timeliness of Petitioner's Exhibit 2. The Board agreed to the admission of Petitioner's Exhibit 2 giving it the weight it deems appropriate.

Subject property is described as follows:

**801 Denver West CO Mills Boulevard
Lakewood, CO 80401
Jefferson County Schedule No. 300407069**

The subject is an auto dealership building containing 39,489 net rentable square feet. The building was constructed in 1989 on a 4.95 acre site. The property is located just west of the Denver Mills development. The general area is north and east of the intersection of West 6th Avenue and Interstate 70.

Petitioner presented the following indicators of value:

Market: Not applied
Cost: \$2,900,000
Income: Not applied

Petitioner is requesting an actual value of \$2,900,000 for the subject property for tax year 2015. Respondent assigned a value of \$5,123,000 for the subject property for tax year 2015.

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates Cost Reduction Specialists, Inc., presented a cost approach to derive a market-adjusted cost value for the subject property of \$2,900,000. To determine the land value, Mr. Stevens provided four comparable sales ranging in sale price from \$475,000 to \$4,000,000 and in size from 107,593 to 555,390 square feet (2.5 to 12.75 acres). After adjustments were made for location and land size, the sales ranged from \$2.73 to \$7.77 per square foot of land area. The witness reconciled to a unit value of \$6.50 per square foot and a value of \$1,402,395.

To determine the contributory value of the improvements, the witness relied upon the Marshall Valuation Service's computerized Calculator Cost Form, concluding to a Replacement Cost New estimate of \$3,020,385 (total of items on line 28, page 26 of Petitioner's Exhibit 1). A depreciation estimate of 43% of cost new was applied to all of the improvements with the exception of a newer showroom portion of the subject containing 2,844 square feet that was depreciated at 20%. Replacement Cost New less physical depreciation was calculated to be \$1,799,348.

Citing functional obsolescence caused by nearby residential development and a 35 foot building height restriction, Mr. Stevens applied a downward adjustment of 15% to the above figure concluding to a "2015 RCNLD & OBSOLOESENSE" {SIC} of \$1,529,446. On page 27 of Petitioner's Exhibit 1 the witness presented a Replacement Cost New less physical depreciation figure of \$65,194 for yard items. No adjustment was applied for functional obsolescence to these items. Mr. Stevens estimated a value of \$2,997,034 by the cost approach and concluded to a total value for the subject of \$2,900,000.

Respondent presented the following indicators of value:

Market: \$5,135,520
Cost: \$5,122,576
Income: Not applied

Respondent's witness Mr. Michael H. Earley, a Certified General Appraiser, used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$5,122,576.

To determine the land value, Mr. Earley provided a tabulation of 24 land sales selected from the Assessor's database that took place during the base period. Respondent's witness considered 19 of those sales as reliable indicators. The comparable sales ranged in sale price from \$5.77 to \$20.46 per square foot and in size from 21,250 to 193,919 square feet (0.488 to 4.452 acres). The witness

concentrated on the six biggest properties ranging in price from \$7.48 to \$12.20 per square foot and in size from 2.47 to 4.45 acres. Mr. Earley considered adjustments for site size, exposure, and access. Respondent's witness reconciled to a unit value of \$9.50 per square foot and a total value of \$2,049,654.

To determine the contributory value of the improvements, the witness relied upon the Marshall Valuation Service and Local data, deriving a Replacement Cost New estimate of \$4,132,990 (total RCN of items noted in Respondent's A, page 36). A depreciation estimate of 22% of cost new was applied to all of the improvements with the exception of the site improvements depreciated at 80% of cost new. Replacement Cost New less all forms of depreciation was calculated to be \$3,072,922. After addition of the previously determined land value, the witness estimated a value of \$5,122,576 by the cost approach.

Mr. Earley presented a market approach containing four comparable sales ranging in sale price from \$4,500,000 to \$7,850,000 and in improvement size from 31,913 to 67,950 square feet. The sales reflected unit prices ranging from \$99.00 to \$216.00 per square foot of improvement area. Respondent's witness testified that insufficient data was available to determine quantitative adjustments to the sales. Respondent's qualitative analysis considered the relative market position of the comparables with respect to location, access, improvement size, date of construction and land size. The average indication of the sales was \$144.00 per square foot of improvement area. After further consideration, the witness chose to exclude the upper end indication illustrated by Sale 1 which reduced the average of the remaining three sales to \$129.00 per square foot. Mr. Earley correlated to a unit value of \$130.00 per square foot and a value opinion of \$5,135,520 by use of this approach.

Respondent's witness gave greatest weight to the indication derived by the use of the cost approach. Citing the limited number of sales available, Mr. Earley considered the market approach to serve mostly as a test of reasonableness and reconciled to a final value opinion of \$5,130,000.

Respondent assigned an actual value of \$5,123,000 to the subject property for tax year 2015.

Petitioner contends Respondent has chosen inappropriate land sales and incorrectly classified numerous components of an automobile dealership which resulted in overvaluation of the subject. In addition, Petitioner argues that Respondent has failed to consider the functional limitations imposed on the property by proximity to residential development and a 35-foot building height restriction. Petitioner also notes that Respondent's presentation of a market approach (sales comparison approach) at the hearing is inconsistent with Respondent's procedures taken when valuing other auto dealerships.

Respondent has taken the position that the sales used by Petitioner are inappropriate. Respondent considers Petitioner's adjustments to be questionable and points out that the \$700,000 remodel completed in 2012 has been ignored. Respondent disputes the validity of Petitioner's classification of the components used in the cost approach and argues Petitioner's witness has inappropriately applied inferior quality characteristics to produce an unsupportable value. Respondent

also maintains the development of a market approach is an important component of actual value determination as it serves as a check of reliability.

In determining the correct classification of the various components of an automobile dealership, the Board considered the information and testimony of both parties. The Board was persuaded by Petitioner's claim that Respondent had inappropriately classified portions of the subject improvements as Auto Service Center rather than as Service Garage. In arriving to this conclusion, the Board relied on the following statement by the Marshall Valuation Service (Petitioner's Exhibit 1, page 59) within the summary of illustrations: "A complete dealership can be priced as a single facility or broken down into showroom and service garage for pricing purposes."

The Board was unable to replicate the cost figures applied by Respondent for either the auto showroom or auto service center portions. Petitioner's calculations were supported by documentation from the cost service and are considered more reliable. The Board has adopted Petitioner's opinion of Replacement Cost New (RCN) at \$1,799,348 as appropriate.

The Board did not accept Petitioner's estimate of physical depreciation and considers it to be overstated. This is particularly true in light of testimony regarding significant updating and a newer addition to the building. Respondent's estimate of physical depreciation considers the effective age(s) of the improvements and properly accounts for the owner's investments. Total depreciation applied by Respondent was 25.7% of RCN which the Board found persuasive.

Petitioner claimed a 15% reduction in the value of the improvements due to functional inutility. No comparable information was presented and Petitioner's witness indicated the adjustment was based on his opinion. Respondent made no mention of this factor. The Board was not swayed by Petitioner's argument noting the subject had been recently updated as well as the influence of the owner's business decisions relative to the jointly owned adjacent ownership to the north.

On the basis of the above, the Board has reconstructed the cost approach in regard to the improvements and concluded to the following:

Replacement Cost New	\$1,799,348
Less: Physical Depreciation	(\$ 462,432)
Less: Functional Obsolescence	<u> (0)</u>
Replacement Cost New Less Depreciation	\$1,336,916

The Board next considered the land value estimates derived by both parties.

The Board did not find persuasive Petitioner's land Sales 1, 2 and 3. The Board agreed with Respondent that Petitioner's land Sale 1 has little similarity to the subject as it consists of two separate parcels, each with different zoning; is situated in a location with limited visibility and has less nearby traffic. Petitioner's land Sale 2, more than twice the size of the subject, is situated across Indiana Street from the subject and is a redeveloped restaurant and a strip retail parcel within Colorado Mills. Sale 3 is also located in Colorado Mills and its location was described by Petitioner as within a "better" restaurant area.

Moreover, the Board found the adjustment process presented by Petitioner's witness to be inconsistent. Petitioner's land Sale 2 was adjusted for a significant size difference but proportionally equal size differences for Sales 1 and 3 were ignored. Little justification was provided for significant adjustments to Sale 2 and Sale 3 due to inclusion within Colorado Mills. Reliance upon these comparables may actually represent sales with a different highest and best use.

Turning to Respondent's land sales, the Board was provided a list of 19 comparable sales drawn from the County's data base used in the mass valuation to determine the current assigned value. From these 19 sales, Respondent's witness focused on the two sales most similar to the subject in size, Sale 7 and Sale 22. The witness applied qualitative adjustments to the transactions for size and location/access. The witness also stated classification problems within the Assessor's office resulted in the exclusion of two nearby sales supportive of his opinion at \$9.50 per square foot.

Respondent rejected Sale 7 because it is not a comparable location and dismissed Sale 22 because of proximity to a planned commuter rail station. The Board agrees that Sale 7 is not a comparable location as the exhibits clearly illustrate no similar retail or commercial development nearby. The sale also requires demolition of existing improvements. Both factors require upward adjustment to that sale suggesting a value "greater than" \$9.45 per square foot. The Board questions Petitioner's contention that Sale 22 should be rejected due to a better location. The Board actually finds this sale to be persuasive. Petitioner's maximum adjustment for superior location was 25%, which the Board finds persuasive. Application of a 25% reduction to the unit price of Sale 2 leaves an indication of \$9.15 per square foot. On this basis, the Board finds Respondent's estimate of land value at \$9.50 per square foot, or, \$2,049,654 to be supportable.

Addition of the depreciated improvement cost of \$1,336,916 to the land value of \$2,049,654 provides an indication of the market value of \$3,386,570.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2015 valuation of the subject property was incorrect

The Board concludes that the 2015 actual value of the subject property should be reduced to \$3,386,570.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$3,386,570.

The Jefferson 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 14th day of July, 2016.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Near

Gregg Near

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

Milla Lishchuk
Milla Lishchuk

