

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 68130

Petitioner:

NEW CENTURION LLC,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 19, 2016, James R. Meurer and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties agreed to stipulate to the expert witnesses, to Petitioner's Exhibits 1 and 2 and to Respondent's Exhibits A, B and C.

Subject property is described as follows:

**10700 E 40th Avenue
Denver, CO 80239
Denver County Schedule No. 0123300016000**

The subject property contains two improvements; a 66,000 square foot warehouse constructed in 1969 and a 2,916 square foot service garage constructed in 1972. The warehouse contains 8,658 square feet of main floor office and 780 square feet of warehouse mezzanine. The warehouse has overhead sprinklers, 11 dock-high and 6 drive-in doors with 24 foot high exterior walls. The service garage is concrete tilt-up construction with 3 drive-in doors. The site contains 272,262 square feet (6.25 acres) with 678 feet of frontage on E 40th Avenue and 400 feet of frontage on Joliet Street. This is a corner site with rail service in place on the east property line. The improvements are in average condition with no significant deferred maintenance or updating.

Petitioner presented the following indicators of value:

Market:	\$2,549,892
Cost:	Not applied
Income:	\$2,393,754

Petitioner is requesting an actual value of \$2,400,000 for the subject property for tax year 2015. Respondent assigned a value of \$3,148,000 for the subject property for tax year 2015 but is recommending a reduction to \$3,000,000.

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates, presented a market approach containing four comparable sales ranging in sale price from \$1,863,750 to \$2,605,000 and in size from 41,770 to 72,625 square feet. After adjustments were made, the sales ranged in unit value from \$35.73 to \$45.46 per square foot of building area.

Adjustments were applied to the comparable sales for condition of sale, location, age, economic and physical characteristics and for excess land. The witness concluded to a unit value of \$37.00 per square foot and applied that figure to the subject's total improvement size of 68,916 square feet to determine a value opinion of \$2,549,892 by this approach.

Mr. Stevens presented an income approach to derive a value of \$2,393,754 for the subject property. Mr. Stevens considered six comparable leases established within the base period. All of the lease transactions were located within the northeast Denver industrial market. The leases ranged in size from 12,790 to 49,164 square feet with one comparable's size (Lease 5) identified as "various". The unadjusted rental rates ranged from \$2.95 to \$3.55 per square foot on a triple net (NNN) basis. The witness concluded to a rate of \$3.25 per square foot NNN for the subject.

In determining the appropriate vacancy and capitalization rates, Mr. Stevens referenced secondary market publications. Citing information provided by CoStar for the subject's submarket, Mr. Stevens applied a vacancy rate of 5% to the anticipated gross income. The regional source, Burbach & Associates, a regional survey, was relied upon to adopt a capitalization rate of 8%. Other landlord expenses were estimated at 10% of collected income. After application of the above procedures, Mr. Stevens concluded a value of \$2,393,754 via the income approach.

Petitioner's market and income approaches indicated a range in value from \$2,393,754 to \$2,549,892. Noting that the cost approach was considered but not applied Mr. Stevens gave the most weight to the income approach and correlated to a final value estimate of \$2,400,000.

Respondent presented the following indicators of value:

Market:	\$2,894,472
Cost:	\$3,637,100
Income:	\$3,011,600

Respondent's witness Mr. Thomas S. Keyes, a Certified Residential Appraiser, presented a market approach (sales comparison approach) containing four comparable sales ranging in sale price

from \$1,879,965 to \$3,300,000 and in size from 38,194 to 83,834 square feet, representing a range of \$36.68 to \$61.24 per square foot. After all adjustments were applied the sales ranged from \$39.25 to \$60.63 per square foot of building area.

Respondent's witness made adjustments to the sales for time (market conditions), size, age, utility, wall height, and land to building ratio. The witness correlated to the lower end of the range at \$42.00 per square foot of building area or \$2,894,472.

Mr. Keyes presented an income approach to derive a value of \$3,011,600 for the subject property. Four comparable leases were considered. The comparables ranged in size from 27,500 to 121,400 square feet and in unadjusted rental rates from \$2.86 to \$4.23 per square foot NNN. The leases were adjusted for size, building age, wall height and land to building ratio. After adjustments, the indicated range of rents was from \$3.03 to \$4.24 per square foot NNN. The witness concluded to a rate of \$3.75 per square foot NNN.

Vacancy was estimated by reliance upon CoStar and information gathered from the property owners by the Assessor's office. The same, in-house, data was relied upon for the estimate of expenses at 8% of collected income. Mr. Keyes relied upon transactions of other base period sales, capitalization rates from industry sources and surveys to conclude to a capitalization rate of 7.5%. Application of this capitalization rate to the net income derived by the process above produced an indication of value by the income approach of \$3,011,600 (rounded).

Respondent relied upon the "Cole-Layer-Trumble" (presumably the analytic software utilized within the mass appraisal process) information to determine a replacement cost new less depreciation for the improvements and a value of the land as if vacant. The conclusion presented by this process was \$3,637,100.

Mr. Keyes gave little weight to the cost approach in his reconciliation. A value estimate of \$3,000,000 was concluded giving emphasis upon the sales comparison and income approach.

Respondent assigned a value of \$3,148,000 for the subject property for tax year 2015 but is recommending a reduction to \$3,000,000.

Petitioner contends Respondent has relied upon income information from taxpayers that is confidential. According to Petitioner, this places Petitioner at a disadvantage as there is no available method to confirm and judge the reliability of this data. Petitioner asserts that Respondent has used a capitalization rate that is too aggressive. Referring to Respondent's analysis of the capitalization rate as inaccurate, Petitioner pointed to the 14 transactions in the local market referenced by Respondent's witness and noted the sales were not of similar properties. Three of the sales were improved with buildings of 1,900 (Petitioner's Exhibit 2, page 2-23), 4,699 (Petitioner's Exhibit 2, page 2-42) and 1,200 (Petitioner's Exhibit 2, page 2-44) square feet; in no way comparable to the subject. Petitioner noted that the two appraisers actually used two of the same comparable sales which lend support to the taxpayer's value opinion.

Respondent questions the analysis and adjustment processes used by Petitioner's witness. When requested to provide support for adjustments used in the Market Approach ranging from 1% to 30% of the property value the witness stated repeatedly they were based on his opinion. Respondent rejects the use of Petitioner's Sale 1 as it is within Adams County and is not the same market. Respondent also questions whether Petitioner's witness committed a double adjustment for the same factors by separating "age" and "physical characteristics". According to Respondent, Petitioner's witness failed to appropriately consider the value of the subject's large site as it represented a potentially separable and saleable parcel. Sale 3, a metal building with unusual configuration, is not a comparable property. Respondent also suggests Petitioner's capitalization rate was only derived from one source and no analysis of rates in the subject market was provided.

In consideration of both sides of the issue the Board finds there is significant agreement between the parties. Both witnesses placed reliance on two of the same comparable sales. In the income approach the variation in the concluded potential gross rent was only \$0.50 per square foot. Other expenses were estimated by one side to be 8% of net income and 10% by the other.

The Board rejects two of Petitioner's comparable sales as unreliable. Sale 1 was located in a different county and insufficient support was provided that the locations were truly equal. Sale 3, a metal building with an atypical configuration, was not persuasive. The Board notes that although the land to building ratio of the subject, 3.95/1, and Sale 3, at 3.71/1 are similar, the irregular shape of Sale 3 significantly limits potential subdivision.

The concluded unit value for Petitioner's Sales 2 and 4 range from \$38.42 to \$45.46 per square foot of building area. The concluded unit value for the same sales as adjusted by Respondent is from \$39.25 to \$47.29 per square foot. The average at the low end is \$38.84/SF and at the high end is \$46.38. Based on a size of 68,916 square feet the value range for the subject is from \$2,676,697 to \$3,196,324.

By considering the mid-range of the indications used for the income approach the Board adopted a rental rate of \$3.50 per square foot; vacancy of 5% and other expenses of 9%. The net income for the above is \$208,523. A mid-range capitalization rate of 7.75% results in a value indication of \$2,690,614.

The greatest support is at the low end of the range where the two separate conclusions are very similar. With the market approach suggesting a higher indication, the lower end of the range is rounded upward to \$2,700,000.

Sufficient probative evidence and testimony was provided 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 \$2,700,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$2,700,000.

The Denver 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).

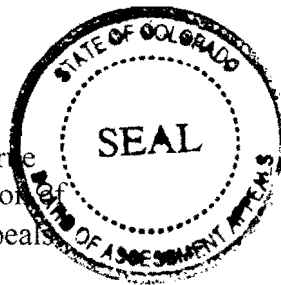
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 1st day of November, 2016.

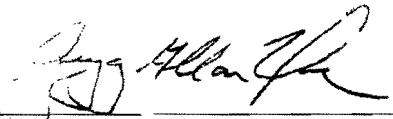
BOARD OF ASSESSMENT APPEALS




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



Milla Lishchuk



Gregg Near



James R. Meurer