BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 68289
Petitioner: **GREEN MOUNTAIN CORPORATE CENTER VI, LLC,** v. Respondent: **JEFFERSON COUNTY BOARD OF EQUALIZATION.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 14-15, 2016, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Neil Oberfeld, Esq. and Amy Cramer, Esq. Respondent was represented by Rachel Bender, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The hearing was part of a consolidation of Dockets 68280, 68281, 68282, 68283, 68284, 68285, 68286, 68287, 68288 and 68289.

Subject property is described as follows:

611-621 Corporate Circle, Golden, Colorado 80401
Jefferson County Schedule No. 436000

The subject includes two buildings located in the Corporate Center subdivision. According to the building records with the Assessor's office, the two buildings consist of 58,051 square feet. According to the rent rolls provided by Petitioner, the subject's total gross building area is 58,832 square feet. (*See* Respondent's Exhibit A, page 26). Each building consists of multi-tenant, flex industrial office and warehouse space. The subject is situated on a 244,677-square-foot site. The buildings were constructed in 2001 and 2002, and include 41% of office build-out.

Petitioner is requesting an actual value of $4,138,295 for the subject property for tax year 2015. Respondent assigned a value of $5,286,000 for the subject property for tax year 2015.

Petitioner's witness, Ms. René Dugdale, Marketing Director with MIE Properties, Inc., testified regarding the rental rate structure in use at the subject. Ms. Dugdale testified that as of the effective date of value, shell warehouse space was offered at a rate of $8.00 per square foot, 10% of which accounting for tenant improvement (TI) allowance. If tenants accepted the space in its "as is" condition, with no TI costs, they received a reduced rate of $7.20 (10% deduction). Spaces with higher percentage of office space commanded higher rental rates, with rates of $9.00 or higher indicated for units with approximately 50% office finish. In some instances, the landlord amortized additional TI costs as additional rental payment.

Ms. Dugdale also testified to the general condition of the buildings in the business park as of the date of value. While the buildings have been well maintained, no significant exterior or system renovation has taken place since completion. Interior finishes have been updated over time based on tenant requirements. She noted that over half of the tenants have been there long-term.

Petitioner's witness, Mr. Duane A. Heins, with Financial Values LLC presented the following indicators of value:

Market:	$3,480,000
Cost:	Not applied
Income:	$3,600,000

Mr. Heins presented a market approach consisting of six comparable sales ranging in sale price from $1,507,500 to $6,525,000 and in size from 23,115 to 99,659 square feet equal to a range of $37.90 to $66.95 per square foot. Sale 3 is a property located in Jefferson County and the remaining sales were selected from a broad geographic area that included Longmont, Lafayette, Broomfield, Denver, and Centennial. Mr. Heins performed a qualitative analysis but provided adjusted prices per square foot based on unspecified quantitative adjustments to indicate a range of $43.81 to $69.20 per square foot. Mr. Heins concluded to a value of $60.00 per square foot or $3,480,000 when applied to 58,051 square feet of building area.

Mr. Heins presented an income approach to derive a value of $3,600,000 for the subject property. The rental rate was derived from a weighted average that reflected the percentage of office space and warehouse space. Office space was assigned a rental rate of $10.00 per square foot and warehouse space was assigned a rental rate of $4.50 per square foot. Mr. Heins applied a rental rate of $7.19 per square foot to the building size of 58,051. Vacancy of 10% was then deducted along with a management expense of 3.0%, reserves of 2.0%, and non-reimbursed expenses at 4.0%. The net operating income was capitalized at an overall rate of 9.5%. Mr. Heins concluded to a value of $3,600,000 via the income approach.

Respondent's witness, Mr. Joel Cuthbert, Certified General Appraiser with the Jefferson County Assessor's Office presented the following indicators of value:

Market:	$6,175,000
Cost:	$6,065,000
Income:	$6,085,000

Mr. Cuthbert presented a market approach based on five comparable sales ranging in sale price from $3,652,000 to $8,750,000 and in size from 24,736 to 101,589 square feet indicating a value range of $81.21 to $147.64 per square foot. Based on a qualitative analysis, the indicated value range for the subject was narrowed to a value above $81.21 per square foot, but below $111.80. Mr. Cuthbert concluded to a value of $105.00 per square foot or $6,175,000 based on this approach.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $6,065,000. Mr. Cuthbert determined land value of $1,529,231 based on a rate of $6.25 per square foot derived from an analysis of 11 sales. Relying on Marshall Valuation Service data and local information, replacement cost new less depreciation was calculated as $3,791,516. Added costs included sprinkler system, yard improvements, and solar panels, bringing the total value of $6,065,000 using the cost approach.

Respondent used the income approach to derive a value of $6,085,000 for the subject property. Mr. Cuthbert derived a rental rate of $9.50 per square foot based on a review of the Jefferson County Quarterly Economic Report (indicating average lease rate for flex/R & D property of $10.21) the RealtyRates.com Market Survey (indicating effective rent rate of $7.85 for flex/ R & D property), and CoStar (which indicated $9.91 rental rate for the West Denver Industrial Flex Market) along with an analysis of actual rental rates within the subject. A vacancy rate of 10.0% was applied. An additional $8,700 was added to reflect income from the solar panels. Non reimbursable expenses of 8% were then deducted. A capitalization rate of 7.75% was deduced from the analysis of the RealtyRate.com survey, the Burbach Summer 2014 survey, and an analysis of three single tenant, industrial building sales, which indicated a broad range of 6.50% to 8.88%.

Placing the greatest reliance on the income approach, Mr. Cuthbert concluded to a value of $6,085,000 for the subject. All three approaches included subject's solar panels in the valuation analysis. Mr. Cuthbert acknowledged that he should not have given consideration to the solar panels, as they were already being taxed as personal property. Respondent assigned an actual value of $5,286,000 to the subject property for tax year 2015.

The Board gives consideration to all three approaches to value, but agrees with the parties that the income approach provides the best indication of value for the subject, which is a leased, multi-tenant flex industrial property. The cost approach is the least relevant due to the age of the subject. Further, both parties admitted that there were insufficient comparable sales to make the market approach a reliable indicator of value.

Although both parties placed the greatest reliance on the income approach in their conclusion of value, Petitioner contends that Respondent applied an above market rental rate and a below market capitalization rate to value the subject, suggesting that Respondent's conclusion of rent be reduced by $1.00 per square foot and that the overall capitalization rate be increased to the 8.8% indicated by the RealtyRate.com survey.

Petitioner contends that Respondent relied on rental rates from the subject property that were inflated by the amortized cost of tenant finish. The Board finds that sufficient evidence was presented to support Mr. Cuthbert's concluded rental rate, including actual rents negotiated during

the base period within the subject and Ms. Dugdale's testimony. Ms. Dugdale testified that a typical lease rate of $8.00 would be appropriate for a space that had no office build-out and that approximately 10% would then be applied to tenant finish. Although she was unaware if an $8.00 rental rate or 10% tenant finish was representative of the market, the evidence indicated a number of examples to support the inclusion of some tenant finish as part of the rental rate. Ms. Dugdale indicated that a rate in the low- to mid- $9.00 range would be expected for a space that included approximately 50% office buildout. She also reported that approximately 30% to 50% of the tenants had occupied units in the complex for multiple lease terms, whereby amortized tenant finish costs would not be a factor. While the Board concurs that above market amortized tenant finish costs are not a reflection of the market rate for the subject, Petitioner provided insufficient evidence to support an adjustment.

Respondent's application of a $9.50 per square foot to a property that has 41% office space is supported by Petitioner's own witness as well as market survey data. Most persuasive to the Board was the Jefferson County Quarterly Economic Report indicating a rate of $10.21 and the CoStar information for the West Denver Industrial Flex Market indicating a rate of $9.91. The RealtyRate.com survey was less persuasive, as it was a reflection of a broad geographic area that included Denver, Boulder, and Greeley.

Petitioner's witness, Mr. Heins, was unable to support the use of a blended rate, with no support provided for a $10.00 rate for office space and a $4.50 rate for industrial space. Although Mr. Heins cited the RealtyRate.com indicated capitalization rate of 8.8%, he was unable to support the high rate used in his analysis, of 9.5%. The Board finds Mr. Heins' testimony to be less credible, as it was apparent that he had little knowledge of the Denver real estate market.

Petitioner contends that assessing real property taxes on the solar panels created a double taxation issue as the panels were already taxed as personal property. Mr. Cuthbert agreed at the hearing that the solar panels should not be taxed as real property. While removal of the value of the solar panels from consideration would reduce Respondent's value conclusions for the subject as indicated by all three approaches to value, the Board is only concerned with the value indicated by the income approach, as it was determined to be the best indication of value for the subject. The Board finds that a deduction of $112,258 is appropriate based on additional income of $8,700 and a capitalization rate of 7.75%. However, even after the deduction of the value associated with the solar panels, the value indicated by Respondent's income approach computes to $5,972,742, which is still in excess of the subject's assigned value for 2015.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence..." *Bd. Of Assessment Appeals v. Sampson,* 105 P.3d 198, 204 (Colo.2005). Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

ORDER:

The petition is denied.

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 27th day of July, 2016.

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

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

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