

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

Docket No.: 70718

Petitioner:

JARSZ LLC,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 2, 2018, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The parties agreed to stipulate to the exhibits and the qualifications of the expert witnesses. The Board admitted Petitioner's Exhibits 1 and 2 and Respondent's Exhibits A-K.

Subject property is described as follows:

**9 Inverness Drive East
Englewood, CO 80112
Arapahoe County Schedule No. 2075-35-3-16-001**

The subject is a 16,308 square foot office/warehouse condominium unit located in the Inverness Business Park. The condominium unit is a portion of a single story building divided into three separate units ranging from 11,612 to 16,308 square feet. The building is located on a 40,831 square foot site. The building was constructed in 1977 and was given an Effective Age of 2004 by the Assessor as a result of renovations.

Petitioner presented the following indicators of value:

Market: \$1,060,020

Cost: Not applied
Income: \$1,030,971

Petitioner is requesting an actual value of \$1,040,000 for the subject property for tax year 2017. Respondent presented an appraisal report for \$1,800,000 for tax year 2017 supporting the Assigned Value of \$1,712,340.

Evidence Presented Before the Board

Petitioner's appraiser, Todd Stevens of Stevens and Associates, presented a consulting assignment containing five comparable sales ranging in price from \$1,050,000 to \$1,950,000 and in size from 10,047 to 26,430 square feet. Sale No. 2 was located within Inverness and the rest of the sales were located in Centennial. After adjustments were made, the sales ranged from \$48.18 to \$83.14 per square foot of building area.

The comparable sales were adjusted for location, age and physical quality/appeal. Total adjustments ranged from (-) 3% to (-) 40%. Sale No. 3 was adjusted upward for location due to an inferior location. All sales were newer than the subject and were adjusted downward for age based upon a factor of 1% per year. Sale No. 2 was adjusted a larger amount as the witness indicated it had significant renovations. Sales No. 1, 2, 4 and 5 were adjusted downward for physical quality/appeal.

Based upon this analysis the witness adopted a unit value of \$65.00 per square foot resulting in a value opinion of \$1,060,020.

Mr. Stevens presented an income approach to derive a value of \$1,030,971 for the subject property. Eight comparable leases were reported ranging in size from 5,663 to 15,742 square feet with base rents of \$6.95 to 9.50 per square foot on a triple net (NNN) basis. Four of the comparable leases, Nos. 1, 2, 3 and 5 were located within Inverness with the remaining transactions located within Centennial.

The witness adopted a base lease rate of \$7.00 per square foot to produce a Potential Gross Income (PGI) of \$114,156. Referencing a study by CoStar for the Inverness Submarket that reported a vacancy rate of 12.8% for the 2nd quarter of 2016, the witness adopted a vacancy rate of 15%. Adjusting the gross income by this rate resulted in an Effective Gross Income (EGI) of \$97,033. Mr. Stevens then applied an additional 15% for operating expenses to derive a Net Operating Income (NOI) of \$82,478.

To produce a value indication from the above analysis, Mr. Stevens relied upon a third party survey by Burbach and Associates. The witness reported typical capitalization rates within the survey were 7% to 9%. From the above, the witness adopted a rate of 8%. Utilization of this rate to the NOI estimate resulted in a value by the Income Approach of \$1,030,971.

The two approaches relied upon by Petitioner's witness ranged from \$1,030,971 to \$1,060,020. Mr. Stevens determined the Income Approach to be the most reliable and concluded to a final value of \$1,040,000.

Respondent presented the following indicators of value:

Market:	\$1,860,000
Cost:	Not Applied
Income:	\$1,750,000

Respondent's witness Kathryn Dowling, a Certified General Appraiser, presented an appraisal report containing six comparable sales ranging in price from \$640,000 to \$2,430,000 and in size from 4,776 to 28,035 square feet. Sale No. 1 was located within the Southgate Business Park and the rest of the sales were located in Inverness. After adjustments were made, the sales ranged from \$97.96 to \$131.52 per square foot of building area.

The comparable sales were adjusted for location, gross building area, view and office finish. Total adjustments ranged from (-) \$22.61 to (+) \$17.34. Sale No. 1 was adjusted downward for a superior location. Each of the comparable sales was adjusted for gross building area. Sale No. 6 was adjusted downward for a golf course view. Sales No. 2 and No. 3 were adjusted upward for less office finish and Sale No. 6 was adjusted downward for more office finish.

Based upon this analysis the witness adopted a unit value of \$114.00 per square foot resulting in a value opinion of \$1,860,000 (rounded).

Ms. Dowling presented an income approach to derive a value of \$1,750,000 for the subject property. Four comparable leases were reported ranging in size from 4,000 to 15,742 square feet with base rents of \$9.50 to \$10.00 per square foot on a NNN basis. All of the comparable leases were located within Inverness.

The witness adopted a base lease rate of \$9.50 per square foot to produce a PGI of \$154,926. Referencing studies by CoStar and five other publications that reported vacancy rates ranging from 3.6% to 9.6% for 2016, the witness adopted a vacancy and collection loss of 10%. Adjusting the gross income by this rate resulted in an EGI of \$139,433. Ms. Dowling then applied an additional 5% for operating expenses to derive an NOI of \$131,067.

To produce a value indication from the above analysis, Ms. Dowling considered several different sources; analysis of alternative investments; the investment survey method from three sources and by market extraction utilizing two different approaches resulting in indications from 2.27% to 9%. From the above, the witness adopted a rate of 7.5%. Utilization of this rate to the NOI estimate resulted in a value by the Income Approach of \$1,750,000.

The two approaches relied upon by Respondent's witness produced a range from \$1,750,000 to \$1,860,000. After consideration of the quality and quantity of the data Ms. Dowling reconciled to \$1,860,000 which was supported by the conclusion developed within the Income Approach.

The Board's Findings

The burden of proof is on a protesting taxpayer to show 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 careful consideration of all of the evidence, including testimony presented at the hearing, the Board finds that Petitioner did not meet its burden.

The Board did find Petitioner's contention regarding the functional inadequacies of the subject building, namely the less than adequate ceiling height, the interference of support poles and the retention of the existing HVAC system and duct work that inhibited the usable ceiling height to be credible.

The Board did not find compelling Petitioner's Limited Summary Consultation report or the testimony provided by the witness. The Board does not place a lot of weight on the report or the testimony due to the selection of comparable sales and leases; reliance upon "experience" in the adjustment process without support in the market; significant real property assistance by individuals that was not acknowledged in the report; unsubstantiated adjustments; use of third party conclusions without support from market participants and a lack of objectivity.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

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).

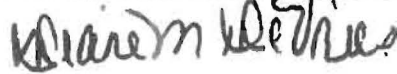
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

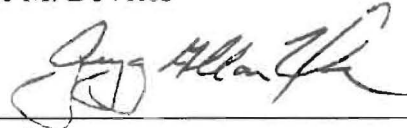
Section 39-8-108(2), C.R.S.

DATED and MAILED this 25th day of April, 2018.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



Gregg Near

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



Milla Lishchuk

