

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BFN INDUSTRIES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 72092</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 19, 2018, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Layne F. Mann, Esq. Respondent was represented by Rachael Delinger, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The parties stipulated to the qualifications of the expert witnesses and the Board accepted the stipulation.

Subject property is described as follows:

**6727 W 58th Place
Arvada, CO 80003
Jefferson County Account Number 300009849**

The subject is an industrial property consisting of two building improvements on a site containing 109,336 square feet (2.51 acres). The main building contains 27,005 square feet constructed with a combination of block, brick and metal finishes. This building was constructed of brick and metal in 1973 with a block addition constructed in 1979. The second building is of metal construction containing 9,000 square feet. The yard area is partially finished with gravel and asphalt paving.

Evidence Presented Before the Board

Petitioner presented the following indicators of value:

Market:	\$1,440,200 - \$1,584,200
Cost:	Not applied
Income:	\$1,509,000

Petitioner is requesting an actual value of \$1,550,000 for the subject property for tax year 2017.

Petitioner's witness, agent David G. Berger, presented a sales comparison analysis utilizing four comparable sales ranging in sale price from \$760,000 to \$1,290,000 and in size from 14,000 to 36,005 square feet. After qualitative adjustments were made, the sales ranged from more than \$29.16 to less than \$57.22 per square foot of building area. Sale No. 4, the subject, sold during the extended base period. Considering the average and median indications of the comparable sales the witness concluded to a range of \$1,440,200 - \$1,584,200.

Mr. Berger also presented an income analysis to derive a value of \$1,509,000 for the subject property. A direct capitalization model was used that consisted of a triple net (NNN) rate of \$5.00 per square foot resulting in a potential gross income (PGI) of \$180,025. Vacancy was estimated at 5% to produce an effective gross income (EGI) of \$171,023.75. Expenses for replacement reserves, vacant units, flood insurance and building insurance of 25% were reduced from the EGI to produce a net operating income (NOI) of \$128,267.81. The NOI was capitalized at an overall rate (OAR) of 8.5% based upon a local survey by Burbach and Associates with a range from 5% to 10%. Capitalization of the derived NOI by an 8.5% rate produced an opinion by the income analysis of \$1,509,000.

Based upon the indications derived from the Sales Comparison Analysis and the Income Analysis the witness reconciled to a fee simple market value of \$1,550,000.

Respondent presented the following indicators of value:

Market:	\$2,350,000
Cost:	Not applied
Income:	Not applied

Respondent assigned a value of \$2,030,900 following an appeal to the Board of Equalization. Respondent has provided an appraisal report supporting the assigned value for the subject property for tax year 2017.

Respondent's witness Joel Cuthbert, a Certified General Appraiser for the Jefferson County Assessor, presented five comparable sales ranging in unit values from \$65.00 to \$76.04 per square foot of building area and in size from 23,673 to 50,403 square feet. After adjustments for date of sale were made, the sales ranged from \$69.65 to \$79.84 per square foot (psf) of building area.

Adjustments were made for market conditions (time), year built and condition, construction quality, building size, land to building ratio, office finish and wall height. The adjustments ranged from no adjustment, off-setting adjustments and downward adjustments ranging from slightly downward to substantially downward. Mr. Cuthbert then converted the qualitative adjustments to quantitative adjustments based upon the number of qualitative adjustments relative to the difference in the dollars per square foot based upon paired sales. This process resulted in a conclusion of an adjustment of \$3.50 for each qualitative adjustment either up or down. After these quantitative adjustments were applied the witness derived unit values ranging from \$69.34 to \$72.73 psf. After considering both an average and median of the adjusted unit values, Mr. Cuthbert concluded to an adjusted unit value of \$71.00 per square foot of building area.

The Board's Findings

The Board did not find Petitioner's sales comparison analysis to be persuasive. Sale No. 1 transferred on August 8, 2016 and, though the property was reported under contract in December 2015, the eight month period between contract and sale causes the Board to question the reliability of the reported price. (The Board also notes the subject property was under contract for only three months at the time of purchase as of 05/30/2013). The subject, reported as Sale No. 4, is 36,005 square feet, or, 2 to 2.5 times the size of Sales No. 2 and No. 3. The Board questions the comparability of these sales. The Board also did not give weight to the witness' position that the subject, after \$212,000 in improvements representing 21% of the sale price, was still below average in comparison to the other sold properties. Additionally, the Board did not find credible the testimony of the witness that the subject's sale price should be increased by 25% for time but none of the other sales need adjustment for this factor. Finally the Board was not swayed by the witness relying upon the use of the average and median prices to be reliable. As noted above, the sales reported have questionable similarity to the subject and the unit values determined by the witness were so widely dispersed that neither technique produces a supportable indication.

The Board was not swayed by Petitioner's income analysis. After careful review of the data provided and the analysis, the presentation appears to be flawed in several respects. The 2013 sale of the subject, as reported by CoStar indicates an "actual cap rate" of 8.53% producing an NOI for that sale of \$85,044. After the buyer spent \$212,000 on improvements and repairs the adjusted value of the property was \$1,209,000. Application of an \$85,044 NOI to the adjusted value indicates a market OAR of 7.03%. As the witness asserted, the sale of the subject property is the best indicator for the subject. The witness's adaptation of an 8.5% capitalization rate is unsupported. In addition, within the income analysis, Mr. Berger applied an 8% reduction to the EGI for flood insurance. The witness then opined to an 8.5% OAR as being necessary due to "flood plain issues". As the flood plain has already been alleviated by a significant expense for flood insurance, the use of a higher OAR for that condition then results in a double adjustment. Another significant inconsistency results from Mr. Berger's adoption of a 25% value increase since the 2013 sale of the subject when no adjustment was applied for any increase of the rental estimate for the same period.

The Board did not find Respondent's sales comparison approach compelling. The Board grants that qualitative adjustments are appropriate but appraisal practice first requires more than a cursory examination for supportable quantitative adjustments. For example the Board examines Mr.

Cuthberts' Sale No. 1 and No. 2. The two transactions are relatively similar, particularly given the parameters used in the quantitative analysis. The two sales differ significantly only in their age and condition. Comparison of the two suggests a negative 10% adjustment to be appropriate for Sale No. 1. This seems more reasonable than the process of converting qualitative adjustments to quantitative adjustments illustrated on page 49 of Respondent's Exhibit A. The Board is not convinced by the adjustment process employed by the witness.

The Board did find compelling Petitioner's presentation of the Income Model included within Exhibit 1 on page 35. Mr. Cuthbert testified the model was provided simply for purposes of negotiation yet it appears to answer the majority of the Board's disagreement with Petitioner's income analysis. A rate of \$5.00 per square foot is supportable given the evidence provided to the Board. The vacancy and expense estimates are reasonable as well. The capitalization rate of 8% lies within the ranges adopted by the two parties. Therefore, that Board has adopted the indication developed within this Income Model as convincing.

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 10th day of August, 2018.

BOARD OF ASSESSMENT APPEALS



Diane 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

