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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ARBOR BUILDING,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 72100</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on July 2, 2018, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Barry K. Arrington, Esq. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The parties agreed to the admission of all exhibits and the qualifications of the expert witnesses.

Subject property is described as follows:

**7850 Vance Drive
Arvada, CO 80003
Tax ID No. 300110894**

The subject is a multi-tenant office building constructed in 1978. The gross square footage is 30,360 square feet with an 8,436 square foot basement used for utility and storage. The building has 27,183 rentable square feet. The structure is located on an irregularly shaped site containing 106,156 square feet (±2.44 acres).

Petitioner presented the following indicators of value:

Market: \$1,685,350 -\$1,794,100
Cost: Not Applied

Income: \$1,700,000

Petitioner is requesting an actual value of \$1,700,000 for the subject property for tax year 2017. Respondent assigned a value of \$2,036,000 for the subject property for tax year 2017.

Evidence Presented Before the Board

Petitioner's witness, David G. Berger, presented a Sales Comparison Analysis consisting of three comparable sales ranging in sale price from \$2,875,000 to \$101,501,800 and in size from 45,823 to 1,694,585 gross square feet. After adjustments were made, the sales ranged in unit value from \$53.39 to \$62.74 (gross) and from \$56.20 to \$100.54 (net).

Sale No. 3 was the sale of Denver West Office Park containing office buildings sold at separately determined prices based upon the income associated with each individual building. The separate buildings ranged from 26,969 to 132,114 square feet with a total size of 1,694,585 square foot (gross). After removing four buildings that were single tenant Mr. Berger determined a range from \$40.92 to \$63.40 per square foot with an average of \$53.39 and a median of \$52.79 per square foot.

The witness provided a sales adjustment grid and applied qualitative adjustments to the individual sales. The sales were adjusted for scale, location, year of construction and building class. The adjusted indications were illustrated as follows on a net rentable basis:

| SALE NUMBER | ADJUSTED INDICATION |
|--------------------|----------------------------|
| 1 | <\$68.30/SF |
| 2 | <\$100.54/SF |
| 3 | >\$56.20/SF |

The witness determined an average indication of \$75.01/SF and a median of \$68.30/SF. From the above Mr. Berger adopted an average unit value of \$62.00/SF to \$66.00/SF and concluded to a value range of \$1,685,350 to \$1,794,100.

Petitioner's witness presented an income approach to derive a value of \$1,700,000 for the subject property. The rental rate for the subject was determined by analysis of five comparable buildings reporting rental rates from \$14.75 to \$17.00 per rentable square foot. The research resulted in an average rate of \$15.55 and median rate of \$15.00 and a rate of \$15.50 was adopted. The witness considered a vacancy rate of 15% as appropriate. Further, the witness adopted an expense estimate of \$6.25 per rentable square foot. A capitalization rate of 8% was adjusted by an effective tax rate (ETR) of 2.76 % for an OAR of 10.76%. Using historic figures, Mr. Berger employed stabilized income and expenses over a five year period to derive an NOI of \$175,000 and then capitalized this amount by the OAR of 10.76% to determine a value of \$1,626,394. The witness also provided a Pro Forma analysis using the market data analyzed above to conclude to a value of \$1,749,464. From the two indications Mr. Berger determined a market value opinion of \$1,700,000.

Mr. Berger stated he gave little weight to the Sales Comparison Analysis and reconciled to the value indicated by the Income Approach of \$1,700,000.

Respondent presented the following indicators of value:

| | |
|---------|-------------|
| Market: | \$2,125,000 |
| Cost: | Not Applied |
| Income: | \$2,025,000 |

Respondent's witness Robert D. Sayer, a commercial appraiser for the Jefferson County Assessor's Office, presented a Sales Comparison Approach containing six comparable sales ranging in sale price from \$1,692,770 to \$6,200,000 and in gross building area from 28,060 to 67,790 square feet. The witness provided a sales adjustment grid and applied qualitative adjustments to the individual sales. The sales were adjusted for land to building ratio, location, building size, type of purchaser, condition and quality. After adjustment the sales ranged from \$53.63 to \$103.17 per square foot. Mr. Sayer concluded to a unit value of \$70.00 per square foot and a market value of \$2,125,000 (rounded).

Mr. Sayer used the income approach to derive a value of \$2,025,000 for the subject property. The rental rate for the subject was determined by qualitative adjustments to five comparable rentals. Adjusted lease rates ranged from \$12.86 to more than \$15.05 per square foot. After adjustment the witness concluded to a full service gross lease rate of \$15.50/SF. After reductions for vacancy and expenses the witness concluded to an NOI of \$230,619. A capitalization rate of 8% was adopted and adjusted by the ETR of 2.76% for an OAR of 10.76%. Mr. Sayer provided an Income Worksheet using the above indications to conclude to a capitalized value of \$2,143,295. This figure was adjusted by lease-up expenses that would be incurred to reach market occupancy. After this adjustment Mr. Sayer concluded to a value by the income approach of \$2,025,000 (rounded).

The witness gave equal weight to both the Sales Comparison and the Income approaches to conclude to a value opinion of \$2,075,000. The value was deemed supportive of the actual value determined by Jefferson County of \$2,036,000.

The Board's Findings

The Board finds both parties agreed on the rental rate and the capitalization rate and found the parties to have been in substantial agreement in their estimates of the EGI (\$358,136 to \$374,989). The areas of greatest variance were the conclusions developed by the market approach and the income approach.

The Board did not find Petitioner's market approach to be credible. The approach relied upon only three comparable sales that demonstrated a range from 45,823 to 1,694,585 square feet. Sale No. 3, representing a sale of 21 buildings of disparate sizes totaling almost 1,700,000 square feet is not comparable to the subject. Of the remaining two sales, Sale No. 2 is over 50% larger than the subject leaving only Sale No. 1, a transaction outside of the base period.

Although the rental rate and capitalization rates were the same between the parties there was disagreement in regard to vacancy and expenses. The Board did not find Petitioner's vacancy estimate to be within acceptable appraisal practice. The subject property had historic vacancy over

the five years reported ranging from 23% to 25%. Market vacancy was determined at approximately 20% yet Petitioner adopted a 15% vacancy rate without explanation. Although the subject has above market vacancy Petitioner failed to consider any adjustment for lease-up expenses any willing buyer would have to consider.

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.

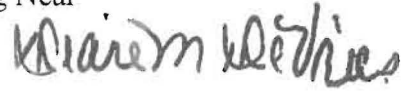
Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of August, 2018.

BOARD OF ASSESSMENT APPEALS

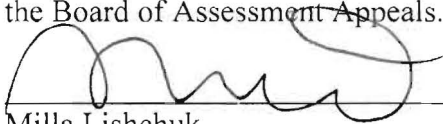


Gregg Near



Diane M. DeVries

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



Milla Lishchuk

