

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 73103</b>
Petitioner:  <b>DEAN VENTURES, LLC,</b>  v.  Respondent:  <b>ADAMS COUNTY BOARD OF EQUALIZATION.</b>	
<b>ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 19, 2018, Debra Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Petitioner’s Exhibit 1 and Rebuttal Exhibits 1-4 were admitted as evidence. Respondent’s Revised Exhibits A and B were also admitted.

Subject property is described as follows:

**8500 Zuni Street, Federal Heights, Colorado 80260  
Adams County Schedule No. R0059544 (Parcel #0171928200019)**

The subject is a 157,501-square foot, owner-occupied distribution warehouse constructed in 1971. It is situated on a 9.33-acre parcel.

Petitioner is requesting an actual value of \$4,000,000 for the subject property for tax year 2017. Respondent assigned a value of \$6,248,852 for the subject property for tax year 2017.

Petitioner contends that Respondent gave inadequate consideration to the subject’s inferior location, building age, and inferior building features (i.e. ceiling height, dock loading). Petitioner presented the following indicators of value to reconcile to the requested value of \$4,000,000:

Market:      \$4,410,028

Cost: NA  
Income: \$3,821,715

Petitioner's witness, Mr. Todd Stevens, Stevens & Associates Cost Reduction Specialists, Inc. presented six comparable sales. After adjustments were made, the sales indicated a value range of \$25.15 to \$37.02 per square foot. Mr. Stevens concluded to a value of \$28.00 per square foot for the subject, equal to \$4,410,028.

Mr. Stevens presented an income approach to derive a value of \$3,821,715 for the subject property; applying a rental rate of \$2.50 (net of expenses), vacancy of 5.0%, expenses and reserves of 13.0%, and a capitalization rate of 8.50%.

Respondent's witness, Mr. David Wooten, Property Manager for Miller International, testified to the building characteristics and condition of the subject.

Respondent's witness, Ms. Valerie Ferguson, Certified Residential Appraiser with the Adams County Assessor's Office, presented the following indicators of value, reconciling to an appraised value of \$8,000,000 in support of an assigned value of \$6,248,852:

Market: \$8,711,380  
Cost: \$7,420,003  
Income: \$8,085,480

Ms. Ferguson presented four comparable sales with prices ranging from \$55.31 to \$101.35 per square foot. A value of \$55.31 was applied to the subject after qualitative adjustment, producing a value indication of \$8,711,380.

Respondent used *Marshall and Swift Valuation*, a state-approved cost estimating service, to derive a market-adjusted cost value for the subject property of \$7,420,003.

Ms. Ferguson's income approach produced a value of \$8,085,480 for the subject property based on a rental rate of \$4.50 per square foot (net of expenses), vacancy of 7.0%, an expenses deduction of 8.0%, and a capitalization rate of 7.5%.

The Board finds that Mr. Stevens' agency and contingency fee arrangement was clearly disclosed to the Board. Taking into consideration the nature of Mr. Stevens' compensation, the Board regards the Consulting Assignment as a consulting service, not as an independent appraisal. In analyzing this case, the Board weighs the evidence provided by Mr. Stevens in light of the disclosed bias shown by the contingency fee arrangement.

After consideration of all three approaches to value, the Board finds that the sales comparison approach provides the most reliable indication of value for the subject, which is an owner-occupied, distribution warehouse facility. "Typically, the sales comparison approach provides a credible indication of value for commercial and industrial properties suited for owner occupancy, i.e.,

properties that are not purchased primarily for their income-producing characteristics.” (Appraisal of Real Estate, 14<sup>th</sup> Edition, Pg. 380).

The Board found the sale comparables provided by Petitioner to best reflect the characteristics of the subject (i.e. age, size, location). Prior to adjustment, the sales indicated a relatively narrow range of \$34.93 to \$46.03 per square foot, representing an average of \$41.36 per square foot as calculated by the Board. However, the Board was not convinced of the reasonableness of adjustments applied by Mr. Stevens to the comparable sales. Mr. Stevens applied significant, and generally unsupported downward adjustments ranging from 20% to 35% to those sales, reducing the indicated range to \$25.15 to \$37.02 per square foot.

On the other hand, Respondent provided an analysis of Petitioner’s sales as rebuttal. Net adjustments were all below 15%, resulting in an indicated range of \$35.94 to \$48.71 per square foot and an average of \$40.16 as calculated by the Board.

The Board found Respondent’s analysis of Petitioner’s sales provided the most convincing evidence to value. The assigned value of \$6,248,852, equal to \$39.67 per square foot was supported by Petitioner’s own sales prior to adjustment. 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 6th day of December, 2018.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Sondra W. Mercier*

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*

Milla Lishchuk