BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 73856
Petitioner: **MILLERCOORS LLC,** v. Respondent: **JEFFERSON COUNTY BOARD OF EQUALIZATION.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 11-13, 2018, Diane M. DeVries, Amy Williams, and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey Jr., Esq. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board accepted John J. Coyle, with Coyle, Lynch & Company; and, Robert Sayer, with the Jefferson County Assessor's Office, as expert witnesses. The Board admitted Petitioner's Exhibits 1-6 and Rebuttal 1-10. Respondent's Exhibits A, B-1 and B-2 were also admitted by the Board. Joint Exhibit 6-A was also offered and admitted.

Subject property is described as follows:

> **17757 West 32nd Avenue, Golden, Colorado**
> **Jefferson County Parcel No. 30-273-00-012; 30-273-01-001; 30-274-00-006; and, 30-271-00-025**

The subject of this hearing was limited to four parcels within the MillerCoors brewing facility. Additional parcels associated with the facility and included in the original Petition were withdrawn per a stipulation agreement between the parties.

Both parties identified total land area of 98.58 acres in four parcels. Portions of the property are located in the City of Golden, and portions are under the jurisdiction of unincorporated Jefferson County.

The subject involves two parcels that are improved with numerous, multi-story, interconnected and free-standing buildings, constructed between 1935 and 1989. The facility is bisected by Clear Creek, with portions of the brewery situated on both sides of the creek (referred to as the North and South Complexes by Petitioner). The remaining two parcels were identified as vacant land.

The South Complex is demised for product packaging, brew house, cellar space, malt house, kiln building, and office space. The North Complex provides much of the brewery's cellar space, hops storage, plant engineering, and a free-standing office building. During processing, the product is piped between the two complexes.

The improvement size used to value the subject varied significantly between the parties. Petitioner concluded to a size of 4,640,455 square feet based on building plans prepared for FM Global/Factory Mutual Insurance Company, dated July 15, 2011. Respondent relied on their internal CAMA system, with square footage of 5,899,225 derived from building plans and permits submitted to the county over the life of the building. The primary difference between the parties was in the calculation of the square footage of the cellar space.

Petitioner is requesting an actual value of $85,000,000 for the four subject parcels for tax year 2017. Respondent assigned a value of $109,079,665 for the subject parcels for tax year 2017. After consideration of all three approaches, the parties relied solely on the cost approach to estimate market value.

Petitioner's witness, Mr. John J. Coyle, Certified General Appraiser with Coyle, Lynch & Company, prepared an Appraisal Report to support the requested value of $85,000,000. Mr. Coyle valued the subject as a single operating unit, noting that all parcels were "integral" and interrelated to the operation of the brewery.

Mr. Coyle valued the subject land as a single 98.6-acre parcel with the assumption that there were no utilities available on-site, noting that there is on-site waste treatment, water, and power generation that was valued as part of the building improvements. Four comparable sales ranging in size from 35 to 130 acres were analyzed, indicating a value range of $1.12 to $1.19 per square foot after adjustment. The site was valued at $4,940,000 based on a unit value of $1.15 per square foot.

Petitioner presented a cost approach to derive a market-adjusted reproduction cost value for the subject property of $85,000,000. Mr. Coyle applied a reproduction cost (rather than replacement cost) analysis for the ability to reflect the actual utility of the subject, noting items of functional obsolescence associated with the brewery due to the age, in-efficient number of additions made to the property over the years, and site constraints (Clear Creek and irregular terrain).

Petitioner used an improvement size of 4,640,455 square feet based on building plans developed for insurance purposes. On the issue of the cellar square footage, Mr. Coyle described the construction as being a multi-level skeletal frame structure with central corridors but no interior floors.

Mr. Coyle's cost approach considered a detailed analysis of the type and date of construction of 32 interconnected and free-standing buildings. Consideration was given to the physical age of each improvement; renovations, upgrading, and remodeling work completed since construction; and general condition based on personal inspection. Mr. Coyle identified the weighted effective physical age of the subject at 40.265 years. The weighted useful life of the improvements was estimated at 49.140 years.

Cost new was based on fourteen individual building components of construction such as foundation, substructure, superstructure, roofing, interior and exterior finishes, and mechanical. Mr. Coyle derived costs from *RS Means Assemblies Cost Manual* and *RS Means Building Construction Cost Data Manual*. Mr. Coyle then applied various factors to reflect location, trending to a date of value of June 30, 2016, contractor's profit, contingency, sales tax, and other property specific items. A 20% downward adjustment was made for the large scale of the subject facility in a single location. The factors resulted in a composite adjustment of 1.1535 for improvements located in unincorporated Jefferson County, and 1.1654 for those located in Golden.

The appraisal identified reproduction cost new of $882,767,500. To determine physical deterioration, the appraiser considered the effective physical age and useful life of each component of each improvement. This process resulted in aggregate physical deterioration of $734,009,400, equal to 83.149% of reproduction cost new.

Mr. Coyle also considered inclusion of functional obsolescence by comparing modern brewery facilities to the subject in its current configuration. The appraiser determined that a deduction for functional obsolescence was required in the case of the subject due to massive size, multiple-story areas, existence of vacant or unused areas, and special features that no longer aided production. Examples included the high percentage (63.4%) of total square footage situated above the first floor; vacant office space; unused coal storage area; unfinished kiln; and, idle tanks and process lines. Mr. Coyle concluded to a deduction of 30% applied to the physically depreciated reproduction cost new equal to $44,627,400. His estimate was based on the actual production capacity of the facility at 20 million barrels compared to the more recent production of 11 million barrels, adjusted upward to 14 million barrels for the future potential of adding product lines.

An additional 15% of the physically depreciated reproduction cost new was deducted to reflect economic obsolescence affecting the subject. The deduction was based on an overall decline in production of beer across the country. After deducting $22,213,700 for economic obsolescence, the depreciated value of the improvements was calculated at $81,917,000. After adding land value, the cost approach indicated a value of $86,857,000 for the subject.

Mr. Coyle also considered a simplified cost approach calculation to value by estimating depreciation based on the overall age-life method. Dividing an estimated 40-year effective economic age by a 44-year total economic life, total accrued depreciation was estimated at 91%, resulting in a deduction of $803,318,400 for depreciation. Adding land value to the re-calculated depreciated cost of the improvements of $79,449,100 produced a value indication of $84,389,100.

Mr. Coyle reconciled the two methodologies to a value of $85,000,000.

Respondent's witness, Mr. Robert D. Sayer, Certified General Appraiser with the Jefferson County Assessor's Office, prepared an Appraisal Report which indicated a total value of $202,355,012. Mr. Sayer valued the subject as four separate operating units.

Mr. Sayer presented a sales comparison approach for each of the subject parcels, which ranged in size from 2 to 40 acres. Mr. Sayer analyzed the subject parcels as having all utilities available; infrastructure in place; and, no barrier to developing each parcel to its highest and best use, identified as a mix of commercial and high-density residential use. The parcels were valued as follows:

Schedule/Parcel #	Parcel Size	Land Value
300066341/30-273-01-001	24.01 acres	$8,380,000
300212651/30-273-00-012	32.80 acres	$11,695,000
300212652/30-274-00-006	1.57 acres	$385,000
300214976/30-271-00-025	40.20 acres	$5,535,000
Total Land Value		$25,995,000

Respondent relied on the internal CAMA system for improvement size of 5,899,225 square feet. Data in the system came from building plans and permits submitted to the county over the life of the facility. The cellar areas were measured as if each level represented a structurally finished floor of the building.

Respondent also relied on the assessor's CAMA system to derive replacement cost (rather than reproduction cost) for the subject property, which was supported by Marshall Valuation Service data. Sections of the building were valued separately. Replacement cost new for the building was $773,103,208. Adding site improvement costs of $6,142,113, brought the total replacement cost to $779,245,321. Although the CAMA system estimated depreciation, Mr. Sayer reported that he believed the deduction made by the system was inadequate. He over-rode the system to reflect depreciation for the various structures at 78% to 81%, noting that Marshall Valuation Service limits physical depreciation to 80%. A deduction of $602,844,831 was made for depreciation (77% of total replacement cost new as calculated by the Board). Respondent's cost approach indicated the following values for the subject:

Schedule/Parcel #	Depreciated Improvement Value	Land Value	Total Indication of Value
300066341/30-273-01-001	$56,910,123	$8,380,000	$65,290,123
300212651/30-273-00-012	$119,449,889	$11,695,000	$131,144,889
300212652/30-274-00-006	Unimproved	$385,000	$385,000
300214976/30-271-00-025	Unimproved	$5,535,000	$5,535,000
Total Value	$176,360,012	$25,995,000	$202,355,012

Both Petitioner and Respondent relied solely on the Cost Approach to value the subject land and improvements. Considering the complexity of the subject, the special purpose nature of the improvements, and the lack of comparable sales, the Board finds the use of a single appraisal

method appropriate. As a result, the value issues center on the components of the Cost Approach; Replacement/Reproduction Cost New; Depreciation; and Land Value.

Replacement/Reproduction Cost New

Petitioner's cost approach, as prepared by Mr. Coyle, considered a detailed analysis of the type and date of construction of 32 interconnected and free-standing buildings. Mr. Coyle relied on RS Means Assemblies Cost Manual and RS Means Building Construction Cost Data Manual to calculate a reproduction cost new for individual building components of each of the 32 buildings. He appropriately accounted for hard and soft costs and applied a 20 percent downward adjustment to account for the scale of the subject facility. The square footage of each building was derived from building plans prepared by FM Global/Factory Mutual Insurance Company for insurance purposes. Respondent's cost approach, as prepared by Mr. Sayer, relied upon Marshall and Swift Valuation Service data to calculate a replacement cost new for each building. The square footage of each building was based upon historic CAMA data acquired from plans submitted when seeking building permits. Mr. Sayer also accounted for hard and soft costs, but did not apply a deduction for the large scale of the facility.

The Board finds the cost data and square footage used by Petitioner to be the most credible. Mr. Coyle presented extremely detailed cost data and supported his cost calculations with knowledgeable, convincing testimony. Additionally, the square footage used was accurate and based upon comprehensive building plans. Therefore, a reproduction cost new of $882,767,500, as calculated by Petitioner, will be utilized herein.

The Board strongly encourages Respondent to update CAMA database square footage for the subject property using square footage information provided by Petitioner.

Depreciation

Petitioner applied straight-line depreciation based upon the effective physical age and useful life of each component of each improvement. The resultant aggregate physical depreciation calculated to 83.149 percent. Respondent applied a physical depreciation deduction to each building ranging from 78 percent to 81 percent. Support for Respondent's physical depreciation deduction was unspecific, but Mr. Sayer noted that Marshall Valuation Service limits physical depreciation to 80 percent.

Petitioner deducted an additional 30 percent from the physically depreciated reproduction cost new for functional obsolescence. Mr. Coyle supported the functional obsolescence deduction by considering the facilities production capacity vs. the facilities actual production, noting the subject facility was constructed to handle production of approximately 20 million barrels per year and is currently producing between 11 and 12 million barrels per year. Given that some excess capacity is necessary, Mr. Coyle estimated functional obsolescence based upon a current, market-based capacity of 13.8 million barrels per year (12 million barrels plus 15 percent excess capacity) compared to the facility's physical capacity of 20 million barrels per year. This comparison indicates that the subject facility is operating at 69 percent utilization, supporting a 30 percent functional obsolescence deduction, rounded.

Petitioner then deducted 15 percent from the physically depreciated reproduction cost new to account for economic obsolescence. This deduction was based upon an overall decline in beer production/consumption across the entire country. Petitioner supported economic obsolescence with beer production data between 2011 and 2016. Essentially, the net present value of a 3 percent decline in national beer production over the six-year period, discounted at 8 percent, which calculates to 14.97 percent, or 15 percent rounded.

Respondent did not apply functional or economic obsolescence as Mr. Sayer could not find market evidence to support the existence of either functional or economic obsolescence.

Again, the Board finds Petitioner's evidence and testimony relative to all forms of depreciation to be credible, with the exception of economic obsolescence. Considering some ups and downs in the production data, and the fact that functional obsolescence is also calculated based upon the subject's declining beer production, the Board concludes that the effect of a slight national beer production decline is adequately accounted for in the functional obsolescence deduction. Claim of further deduction based upon declining beer production is deemed "double dipping."

Summarily, a deduction for physical depreciation of $734,009,400 and a deduction for functional obsolescence of $44,627,400 will be applied.

Land Value

Both Petitioner and Respondent provided land sales within a Sales Comparison Approach to conclude to a value for the subject land. Petitioner valued all four parcels, or the aggregate 98.58 acres, as one parcel of land, due to the interrelated nature of the four parcels. Respondent valued the land of each of the four parcels individually. Each Sales Comparison Approach contained errors within the land sales sited, and neither party offered a particularly compelling land value. However, Respondent's land sales were selected based upon a flawed Highest and Best Use analysis. Respondent's assertion that the reasonable future use of the four subject parcels would be for mixed-use development was not supported by evidence or testimony. Certainly not to the extent required by case law, specifically as directed per the *Board of Assessment Appeals v. Arlberg Club*, 762 P.2d 146 (Colo. 1988) decision. Additionally, Respondent valued the land as available for mixed-use development and valued the improvements based upon their current industrial use, inappropriately ignoring the appraisal theory of consistent use. While Petitioner used sales which did not have utilities to the site, the on-site utility infrastructure was included in the reproduction cost of the facility.

The Board concludes that valuing the four subject parcels as a combined, 98.58-acre parcel is appropriate. Evidence and testimony offered support for the interrelated and interconnected nature of the four subject parcels and, in some instances, the near impossibility of independent development of parcels. Overall, the land value of $4,940,000, as concluded within the Sales Comparison Approach of Petitioner, is most persuasive and will be utilized herein.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2017 valuation of the subject property was incorrect. Based upon the above analysis of the components of the Cost Approach, the subject value is concluded to be:

Reproduction Cost New	$882,767,500
Less Physical Depreciation (83.149%)	($734,009,400)
Reproduction Cost New Less Physical Depreciation	$148,758,100
Less Functional Obsolescence (30%)	($ 44,627,400)
Reproduction Cost New Less Depreciation (all forms)	$104,130,700
Plus Land Value	$ 4,940,000
Total Indicated Value via Cost Approach	$109,070,700

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to $109,070,700.

The Jefferson County Assessor is directed to change his/her records accordingly.

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 17th day of January, 2019.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Diane M. DeVries

Amy J. Williams

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

Milla Lishchuk