

AMY MERCADO

ORANGE COUNTY PROPERTY APPRAISER



December 16, 2024

VIA EMAIL

Value Adjustment Board (VAB@occompt.com)

Aaron Thalwitzer, Esq., VAB Attorney (aaron@brevardlegal.com)

RE: Reconsideration Request - Petition #2024-3189

Dear Mr. Thalwitzer:

Our office respectfully requests a reconsideration of the Special Magistrate's recommendation for petition #2024-3189. This request is submitted in compliance with the time requirements set forth in the Value Adjustment Board's Procedures for Requests for Reconsideration.

The subject property is a one-story multi-tenant retail building consisting of approximately 61,442+/-SF of net leasable area that is anchored by a Publix supermarket. Special Magistrate's Rec. at p. 2. The 2024 market and assessed values of the subject property are both \$12,912,285. Id. at p. 1. The Special Magistrate reduced the subject property's market and assessed values to \$10,983,133. Id.

In his recommendation, the Special Magistrate erroneously made two deductions for "cost of sale" which you require of all Recommendations. While our office strongly disagrees with your directive and has previously set forth extensive arguments in opposition, the Special Magistrate's approach in this Recommendation results in a clear double counting of this deduction.

Here, the Special Magistrate reduced the capitalization rate for "cost of sale" and then made an additional deduction below the line of \$1,220,348 also for "cost of sale." Again, while our office strongly disagrees with your directive and does not waive any arguments in its opposition, the Special Magistrate's approach clearly double counts this deduction, which fails to comply with professionally accepted appraisal practices under section 194.301, Fla. Stat. (2024), and the requirements of section 193.011, Fla. Stat. (2024).

Sincerely,

/s/Ana C. Torres

Ana C. Torres, Esq.

General Counsel & Chief Deputy Property Appraiser

cc: Florida.Petitions@Ryan.com; Tiffini.Taylor@Ryan.com (*Petitioner's Representative*)

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Petition 2024-3189 Lake Nona Creekside

Income Capitalization Analysis

Use - Type	Square Feet	Annual Rent	Annual Income
Grocery - Publix	45,600	\$20.00	\$912,000
Inline Restaurant	3,600	\$50.00	\$180,000
Inline Retail	12,242	\$50.00	\$612,100
	61,442		\$1,704,100
Potential Gross Income			\$1,704,100
Less: Vacancy & Collection @		5.00%	<u>\$85,205</u>
Effective Gross Income			\$1,618,895
Add: Ancillary Income			<u>\$0</u>
Adjusted Gross Income			\$1,618,895
Less: Expenses @		\$7.82	<u>\$480,476</u>
Net Operating Income			\$1,138,419
Capitalization:			
Capitalization Rate		7.00000%	
Divided By: (1 - % Cost of Sale)		90.0000%	
Equals: Effective Tax Rate (ETR)		7.7778%	
Add: Millage Rate		1.55086%	
Equals: Cap Rate Adjusted for COS & Millage		<u>9.32864%</u>	
Value Indication			\$12,203,481
Adjustments:			<u>\$0</u>
Preliminary Value Indication Before COS Deduction			\$12,203,481
Less: Costs of Sale Deduction @10%			<u>\$1,220,348</u>
Just Value Indication			\$10,983,133



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January 8, 2025

VIA E-MAIL TO: ANISSA.MERCADO@OCCOMPT.COM

Orange County Value Adjustment Board
c/o Ms. Anissa Mercado, VAB Supervisor

Re: VAB Counsel's Opinion on PAO's Request for Reconsideration
Pet. No(s): 2024-03189

Ms. Mercado:

I have reviewed the request for reconsideration submitted by the Orange County Property Appraiser ("PAO"), the recommended decision, and the pertinent portions of the record. In this just value petition, the special magistrate ("SM") granted the petition, reducing just (and assessed) values from \$12,912,285 to \$10,983,133. The petitioner did not respond.

The PAO asserts that the Florida Department of Revenue's ("DOR") directive to apply the cost of sale deductions identified in the PAO's DR-493 are generally improper and that, in this case, the SM made two cost of sale deductions, first reducing the capitalization rate for cost of sale and also deducting \$1,220,348 for cost of sale "below the line".

Per the DOR's 2024 VAB training materials, professionally accepted appraisal practices, and Florida law, it is improper to double-count cost of sale deductions.¹ Accordingly, the PAO is correct that the recommended decision improperly applied two cost of sale deductions.

Based upon the foregoing, VAB counsel recommends that the PAO's request for reconsideration be GRANTED, and the recommended decision remanded to the special magistrate to apply a single cost of sale deduction.

Sincerely,

GORDON & THALWITZER

Aaron Thalwitzer, Esq.

¹ "When the VAB makes findings of fact on the cost of sale deductions the property appraiser made and then reported on Form DR-493, and then uniformly applies the same percentage deductions where necessary for uniformity without double-counting, the VAB likewise complies with law including the standard of professionally accepted appraisal practices." 2024 VAB Training Materials, p. 156-57: