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BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO
1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioner:

HEWLETT PACKARD,

v.

Respondent:

EL PASO COUNTY BOARD OF EQUALIZATION.

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Attorney or Party Without Attorney for the Petitioner:

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Docket Number: 35187

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ORDER

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THIS MATTER was heard by the Board of Assessment Appeals on June 7, 2001, Mark R. Linné, J. Russell Shaw, and Karen E. Hart presiding. Petitioner was represented by Norman Wright, Esq. Respondent was represented by John Franklin, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

LOT 1 BLK 1 HEWLETT PACKARD 1ST FLG
(El Paso County Schedule No. 73233-01-008)

Petitioner is protesting the 1999 actual value of the subject property, a 546,000-580,000 square foot industrial research and development facility consisting of 3 main buildings with some ancillary support buildings, located on 97.22 acres of land.

ISSUES:

Petitioner:

Petitioner contends that the subject property is an industrial flex facility that would be similar to a warehouse if the bullpen offices were removed. The highest and best use is for a future multi-tenancy use. Respondent's sales are too small in square footage and should not be considered. The only portions of the mezzanine areas that should be included in the subject property square footage are the useable areas, excluding the mechanical equipment areas.

Respondent:

Respondent contends that the subject property was properly valued using all three approaches to value. Respondent used sales of similar research and development facilities. Petitioner's sales were distribution warehouses and should not be considered comparable. All the mezzanine area should be included in the subject property building square footage calculation.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Jason Letman, a Certified General Appraiser with Consultus Asset Valuation, presented the following indicators of value:

Market:	$10,933,000.00
Cost:	$12,119,000.00
Income:	$12,367,000.00

2. Mr. Letman testified that he was the primary analyst for the appraisal report, Exhibit G. He has worked on 6 to 10 industrial facility appraisals for properties in excess of 500,000 square feet. He has inspected the subject property twice. He testified to a number of corrections needed in the report.

3. The subject property has a building area of 546,644 square feet with a land size of 97.22 acres. There are 2 major types of properties in the area: office and light industrial. The subject property consists of 3 major buildings with some smaller ancillary buildings. Mr. Letman testified that there is no excess land at Hewlett Packard (HP). There are some personal property temporary buildings, which decrease the excess land area. The land-to-building ratio is within an acceptable range.

4. Mr. Letman testified that Building A was built in 1962 and consists of 137,583 square feet. Building B was built in 1967 and consists of 143,741 square feet. Building C was built in 1975 and consists of 265,320 square feet. Each year of construction was weighted according to size to arrive at a weighted effective year built of 1970.

5. Mr. Letman testified that his square footage differs from that of the Respondent due to the mezzanine area; he only included 4,248 square feet. Most of the mezzanine is used for mechanical and storage areas. They only included useable conference rooms and a computer room square footage in the mezzanine area in their building total square footage calculation.

6. Mr. Letman testified that the finished space calculations were determined with assistance from Hewlett Packard. The finished space is mostly standard office space. There are no hard-wall offices except for conference space. The offices are open, consisting of personal property partition walls.

7. Mr. Letman testified that the average age of the buildings is 1970. They are well maintained and are in generally good shape. As of the date of value, the purpose of the TechniScan report was to give HP the condition of the property. It was prepared in 2000 but they believe it was the same condition as on the assessment date. The inspections were done in 1999 and 2000. The base year period is 1997 and 1998, with the condition as of January 1, 1999. The estimated deferred maintenance cost was $5,000,000.00; however, they did not deduct the $5 million from their value conclusions, most of the deferred maintenance was cosmetic in nature. It is already considered in their valuations via all three approaches to value in the depreciation and rental rate calculations.

8. Mr. Letman testified that the highest and best use is continued use as a single-tenant industrial-flex facility. However, the most likely purchaser would be an investor that would convert the property to multi-tenancy. He did not find a single sale of larger single user properties in the country.

9. Based on the market approach, Petitioner's witness presented an indicated value of $10,933,000.00 for the subject property.

10. Petitioner's witness presented 5 comparable sales ranging in sales price from $21.63 to $34.57 per square foot and in size from 210,000 to 680,000 square feet. After adjustments were made, the sales ranged from $16.19 to $21.94 per square foot.

11. Mr. Letman testified that he looked at El Paso County for sales of facilities ranging in size from 250,000 to 750,000 square feet, but found none. He found a 210,000 square foot sale located in El Paso County, which is his Comparable Sale 4. The land-to-building ratio was 3.11:1. The three buildings were built between 1979 and 1984. They are multi-tenant and the office space is configured as bullpen space. It sold in April of 1996. It is located near the subject property but is much smaller in size.

12. Mr. Letman testified that he expanded his search to Colorado sales and found four. It was necessary to go beyond the 18-month period for sales. Sales 2, 3, and 5 are located in the Denver metro area. The best comparable is Sale 1, the former StorageTek (STK) facility located in Longmont, Colorado.

13. Comparable Sale 1 is 551,600 square feet, which is very similar to the subject property size. It is also designed with similar interior finish and office space. The main difference is the excess land in the STK sale. The buyers and sellers considered 85 acres as excess land. Consultus examined sales and confirmed the value of the excess land at $1.90 per square foot. Sale 1 sold as a single tenant configuration. It is currently being converted to multi-tenant space.

14. Comparable Sale 2 is located in Arapahoe County. There are 3 buildings with a building area of 680,000 square feet and a year built of 1975. The land-to-building ratio is 3.35:1. The property sold in January of 1996. The property is a multi-tenant facility.

15. Comparable Sale 3 is located in the City and County of Denver. There are 3 buildings with a building area of 454,800 square feet, with a year built of 1975. The land-to-building ratio is 1.79:1. It is a multi-tenant property with approximately 20% office space.

16. Comparable Sale 5 is located in Adams County. The building area is 289,000 square feet. It consists of 6 buildings and is multi-tenant. The year of construction is 1974 and was sold in February of 1996. The land-to-building ratio is 3.01:1. There is approximately 15% office finish.

17. Mr. Letman testified that he did visual inspections of the exterior of Sales 2, 3, and 5. He conducted some limited interior inspections. They looked at land sales during the time frame and determined that land prices in the Denver metro area and Colorado Springs were very similar, so there was no need for a location adjustment.

18. Mr. Letman testified that they also looked outside of Colorado for sales, but they did not include any in the report.

19. Mr. Letman testified regarding adjustments made to the comparable sales. As mentioned earlier, there was no adjustment for location. There were no adjustments made for financing or real property rights. There was also no adjustment made for conditions of sale.

20. Mr. Letman testified that they looked to COMPS, Inc. for time adjustments. They looked at sales occurring from 1996 to 1998. According to their graph, there was no increase in price levels for properties over 200,000 square feet, unlike smaller properties. They made no adjustment for time.

21. Mr. Letman testified that adjustments were made for age of the improvements at a rate of 1% per year to account for the depreciation of the buildings. Regarding size adjustments, Sales 4 and 5 were smaller than the subject; Sale 4 was adjusted downward 15%, and Sale 5 was adjusted downward 10% for size.

22. Mr. Letman testified that the most likely purchaser would refit the subject property to multi-tenancy; therefore, adjustments were made for tenant mix. They compared the average sales prices of Sales 2 through 5, which were multi-tenant properties, and compared them with Sale 1, which is similar to the subject. The indicated difference was minus 25%, which was then applied to Sales 2 through 5.

23. Mr. Letman testified that they also made adjustments for finished area. The +/- 15% adjustment was based on the percentage difference of finish, tempered by the level of finish: hard wall office finish versus bullpen office space.

24. Mr. Letman testified that they concluded to a value of $20.00 per square foot, or $10,933,000.00 via the sales comparison approach. They relied most heavily on the STK sale, tempered by the other sales. The concluded value does not reflect the $5 million deduction for deferred maintenance.

25. Petitioner's witness presented an income approach to derive a value of $12,367,000.00 for the subject property.

26. Mr. Letman testified that they used the direct capitalization income approach. They looked in the Colorado Springs area for market rents of larger, multi-tenant buildings. Most of the rental comparisons were less than 50,000 square feet. He felt that the 3 buildings comprising the subject property would be leased individually. The estimated rental rate for the subject property is $4.50 per square foot, triple net. The potential gross income was calculated to be $2,459,900.00.

27. Mr. Letman testified that they found the estimated vacancy and collection loss in the Colorado Springs area to be 5-10%; he used 10% due to the size and age of the subject. All the rents were triple net, so the only landlord expenses were management at 4% and reserves for replacements at $.30 per square foot. Total expenses equaled $.46 per square foot. The net operating income equaled $1,961,300.00.

28. Mr. Letman testified that a capitalization rate could not be derived from multi-tenant configurations; therefore, they looked at published sources. The cap rates ranged from 8-12.5%. They selected 12.5% due to the additional risk due to the age, size, condition, and single tenancy of the subject property.

29. Mr. Letman testified that he concluded to an income approach value of $15,690,400.00, assuming that the subject property is already leased up with tenants in the property. They then calculated lease-up expenses. They determined an excess vacancy rate and discounted the rent loss at 12%, which was then subtracted from the $15,690,400.00 value. This calculation takes into account that it would be unlikely all of the space would lease at once. The final value conclusion via the income approach was $12,367,000.00.

30. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of $12,119,000.00.

31. Mr. Letman testified that they found 8 land sales in El Paso County that were 78 acres and less in size, but they are not located near the subject property. They were the largest sales they could find; there were no large industrial land sales in the subject property neighborhood. They also applied a development approach to 16 sales of small industrial land parcels of less than 10 acres, which they found in Colorado Springs. After adjustments, Consultus concluded to a land value of $.50 per square foot. The Respondent assigned a land value of $1.00 per square foot.

32. Mr. Letman testified that they used the Marshall & Swift (M&S) cost valuation service to determine the value of the buildings. They arrived at a replacement cost new of $67.88 per square foot, or $37,108,700.00. They then calculated an annual depreciation rate of 2.5%, for a total depreciation deduction of 73%. The final value via the cost approach is $12,119,000.00 or $22.17 per square foot.

33. Mr. Letman testified as to the reconciliation of the three approaches. The sales comparison approach is the best as there was a very similar sale: the STK Comparable Sale 1. They did not rely on the cost approach; it was only a test for reasonableness for the sales approach. They gave some weight to the income approach, as that is what a potential purchaser would look at. The final value conclusion was $11,500,000.00, with the most weight placed on the STK Longmont sale.

34. Under cross-examination, Mr. Letman testified that he would rate the comparable sales in order as follows: 1, 4, 2, 3, and 5.

35. Regarding the cost approach, Mr. Letman admitted that Land Sales 1 and 3 occurred outside the base year, although Sale 1 was negotiated within the appropriate time frame. Sale 3 was part of his consideration, but did not affect his value conclusion. Sale 4 is not located in a high tech area. He admitted that Sale 5 might be zoned residentially. He was not aware that the zoning on Sale 8 was "public facility." These sales were the largest sales available, according to COMPS Inc., located within Colorado Springs. All together, they would give an indicator of value. The qualitative approach adjusts for factors in the marketplace. The Appraisal Institute accepts +/- qualitative adjustments when there is not a large quantity of information available. Mr. Letman was not familiar with the exact location of the sales. He has not seen the properties, but did look at them on a map and was generally familiar with the zoning for each parcel. Regarding the smaller land sales on page 49 of Exhibit G, he admitted that several of the sales occurred outside the base year. He is aware that the assessor cannot use a development approach for land, but he used it as a reasonableness test for his other land value approach. He is still comfortable with his land value.

36. Regarding the income approach, Mr. Letman clarified the conflicting statements on comparability of the rental properties. On January 1, 1999, the subject property was utilized as an industrial flex building, not a multi-tenant building. He used rent comparables that were not comparable to the subject property because that is the type of analysis a purchaser would use for conversion to a multi-tenant configuration. Regarding Lease #2, it was for 54,011 square feet; he included it but could not locate the property. The rents came from the Turner Report and are not actual rents but asking rents, which are usually higher than actual rents. He testified that the rent comparable properties were all industrial-classed properties, but he was not aware of the actual location, condition and other specifics for some of the comparables. He relied on information from the Turner Report. These were the largest leases that they could identify in the Colorado Springs area. The actual vacancy rate for the area was 5%, but he used 10% due to the size of the property and conversations with brokers and buyers; it would take longer to lease. He does not feel the excess vacancy allowance is speculation. The number of tenants can depend on the degree of affect on the vacancy. The most likely configuration for the subject property is multi-tenancy, with one tenant per building. The leases he used were the largest tenants he could find, but none were single tenants.

37. Regarding the sales approach, Mr. Letman testified that he made no adjustment for deferred maintenance, as it was already accounted for in the approach.

38. Regarding Comparable Sale 1, it is the most comparable. It is a one building versus the subject property's 3 interconnected buildings. He did an exterior inspection of the property. The subject is closer to an interstate highway than the sale, but not to a primary arterial road. Both have adequate access and both are located near major arterial roads. He did not make a location adjustment for proximity to an interstate highway. He is aware that the STK building has a metal wall, but he did not feel it was necessary to make an adjustment. The subject property has 72% net bullpen office area versus the comparable's 43% office space, so he made an adjustment for office space. He believes STK is equal to the subject. He has not been inside the STK facility; however, he did talk to the seller, buyer and broker and all told him the same thing. He used the purchaser's assigned value of $1.90 per square foot for the excess land; it was supported by other sales in the area. They looked at different markets to arrive at a land value. The excess land is worth more at the STK facility; it is developable. His testimony regarding similar land values between the Denver metro area and Colorado Springs was in general terms, not site specific.

39. Regarding Comparable Sale 2, it was a multi-tenant property as of the assessment date. A portion was a distribution warehouse. There are 3 buildings with a total square footage that is larger than the subject property. He admitted that the construction was Twin T, which was not the same as the subject, but testified that the quality of construction is similar to the subject. He inspected the entire perimeter of the buildings. He saw a couple of the office areas and observed that they had hard wall office finish; he did not see all of the office area in all the buildings. The 10-20% office area was given to him during the confirmation process as well as based on his observation; it appeared typical for an industrial building. The most probable purchaser would not be as a research and development (R&D) facility. The interior finish is not similar to the subject. He did not observe any high-tech uses in the neighborhood.

40. Regarding Comparable Sale 3, it is partly a distribution warehouse of Twin T, poured concrete construction. It is located in a primarily industrial neighborhood. There are no high-tech businesses in the immediate neighborhood. It was not used as an R&D facility on the assessment date. There are few windows, but are numerous dock doors on the property. He was not in the building, other than in the office area. The zoning is I2. If there were a lesser amount of office finish, it could affect his analysis.

41. Regarding Comparable 5, it is smaller than the subject. It is located on a dead-end street adjacent to I-25. These are industrial buildings of Twin T construction that were multi-tenant on January 1, 1999. He is not sure whether there were 6 buildings on the property at the time of the sale; the buildings were built in phases and have various year builts. He does not know if any of the buildings were used for R&D. According to his verification information, it was 15% office space. He did not adjust for access.

42. He is not aware of any industrial facilities adjacent to the subject property. HP has more windows than Sales 1, 2, 3, or 5. The subject property has beam decking and masonry floors; it is not of Twin T construction. He made no quality of construction adjustments. The subject property has 72% office area, and he would guess that 10% of the office area is conference area. There are some labs in the subject.

43. In redirect, Mr. Letman testified that the HP area is fully developed; there are no land sites available for sale, specifically of the subject size. It is typical to go outside the area for land sales, and he made location adjustments accordingly. The small land sales that occurred outside the base year did not influence his value decision. He did not place much reliance on the cost approach.

44. In redirect, Mr. Letman testified that, for the income approach, there is no lease data available within Colorado for properties of 250,000 square feet or more. A smaller area typically rents for more per square foot than a larger area. He used a 10% vacancy because the subject size would be much harder to lease than the typical lease area in Colorado Springs. On a stabilized basis, a greater amount than 5% was warranted, which is also why he used a 3-year period to lease. The Longmont property is still mostly vacant; it has been more than 3 years since the sale and it is still not leased up.

45. Mr. Letman testified that you would make access adjustments if there was a significant problem getting to the property, or if trucks had difficulties getting into the facility. Sale 1 has access to the major arterial road system. The access to educated employees in Longmont is comparable, if not superior, to the subject. The Longmont sale is located in a high-tech corridor.

46. The subject Garden of the Gods area is less high tech and more office/industrial with some high tech. The subject is over 30 years old and the floor plan is mostly open area. There are no extensive clean room or labs in the facility. Removal of the finish would result in a warehouse-type facility.

47. His comparables were the only sales of larger size properties, as well as being similar in age to the subject. He relied primarily on the StorageTek sale, Comparable 1. The actual use by HP would not be relevant to a potential purchaser.

48. In recross-examination, Mr. Letman testified that he used sales of similar size and age, but not the same use. The neighborhood for Comparables 2, 3, and 5 is different than the subject; there is more office space.

49. Upon questioning from the Board, Mr. Letman testified that they omitted the mezzanine areas because it is space that cannot be used for any kind of productive purposes; it is not an important part of the building. The most probable purchaser would try to lease the space to multi-tenants. They would need to break out the mechanical systems separately, discount tenant finish, and would have leasing commission expenses. Sales 2 through 5 were multi-tenant and were leased at the time of sale, so the conversion expenses were already done. A buyer would consider the conversion expenses. He obtained the 25% multi-tenancy adjustment by comparing age and size of Comparables 2 through 5 to Sale 1; there was a 25% premium paid for

the other 4 properties. The STK buyer's goal was to sell of the excess land, and to convert the property to a multi-tenant building, knowing there would be conversion costs.

50. Upon questioning from the Board, Mr. Letman testified that general land values between the subject and the comparables were similar. However, the excess land value for the STK property is different than the subject property due to a different highest and best use. In the subject area, the excess land would be most likely used for development. The STK excess land would be used for retail. For the building replacement cost, he used only the useable area of the subject, using an R&D classification from Marshall & Swift, which would include mechanical areas. He did not add entrepreneurial profit. The cost approach indicated a 2.5% per year adjustment for age, versus the 1% per year adjustment via the market approach; the 1% is tempered by including the land value in the total price: the 2.5% would be to buildings only. His 15% finish adjustment is used to take into account that there is a lot of finish in an R&D facility as compared to a warehouse; M&S considers R&D to have 50% finish.

51. Petitioner is requesting a 1999 actual value of $11,500,000.00 for the subject property.

52. Petitioner's witness, Mr. Barry Hinton, Manager of Facilities Engineering and Space Planning for Ajilent Technologies, Inc., testified that the mezzanine areas are over restroom and corridor areas. They were formed due to the extra height of the buildings. In Buildings A and B, the beams are so low in the mezzanine spaces that occupancy by people would not meet code. Every one of the mezzanine areas has mechanical equipment located there. The areas are used for equipment or storage.

53. Mr. Hinton testified that Hewlett-Packard built all three of the subject property buildings by design as multi-purpose buildings. In the 1990s, they moderately renovated the facilities with drop ceilings, lighting and carpeting. The open office space was not conducive to obtaining or retaining employees. The only enclosed office in the plant is for the nurse, due to the need for confidentiality. In every building there is an exterior aisle; the offices are located in the center of the buildings. The windows are a detriment, as people do not want to be located next to them; there is too much glare on the computer screens. Less than 50% of the property is a manufacturing facility. The subject property is the location of the only Ajilent Technologies, Inc. data center. There are limited lab and clean room facilities.

54. Mr. Hinton testified that the buildings have a dual duct HVAC system. When they have added conference rooms in the past, they have had trouble controlling the temperature, as the control is located in the main space. You would need to start over with the mechanical systems to make hard-office space.

55. Mr. Hinton testified that Ajilent had TechniScan do a maintenance needs study in March of 2000. Most of the conditions noted in their inspection were also present in 1999.

56. In cross-examination, Mr. Hinton testified that the office areas have computers. There is walker duct electrical wiring under the floor. They are now dropping electrical service from the ceiling. He would not characterize the subject property as a distribution warehouse.

57. Upon questioning from the Board, Mr. Hinton testified that there are wood sleepers for the walker duct system; it is not a raised floor system. He also testified that Cat 5 wiring cannot be used in the floor; it must be dropped from the ceiling. In most buildings constructed today, the mechanical systems are located on the roof or outside of the facilities.

58. Respondent's witness, Ms. Tina Flutcher, a Certified General Appraiser and the Commercial Appraiser Manager with the El Paso County Assessor's Office, presented the following indicators of value:

Market:	$30,394,360.00 (Local sales)
Market:	$17,111,554.00 (National sales)
Cost:	$21,155,999.00
Income:	$23,682,268.00

59. Ms. Flutcher testified that Exhibit 1 is her appraisal report. She has complied with the Division of Property Taxation (DPT) guidelines.

60. Ms. Flutcher testified that there is a difference in her square footage compared to Petitioner’s square footage in the cost approach. The descriptions are fairly close. She valued the entire site. There are no temporary structures; they have been there for years. She also compared the Hewlett Packard CAD drawings that were supplied to her. They considered the mezzanine space as it is being used to the max; every building has to have mechanical and heating service.

61. Ms. Flutcher testified that she does not agree that the subject property is a warehouse with carpeting. She toured the buildings in 1998. They are not being used as a warehouse. In her opinion, they cannot be converted to a warehouse. It is a very nice facility. There is a lot of landscaping and the buildings are well maintained. The buildings are of masonry construction. Buildings A and C are nothing but windows. There are few dock doors. There are support buildings that function as a unit with the main buildings.

62. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $21,155,999.00.

63. Ms. Flutcher testified that the land department supplied her land sales. The time adjusted sales prices ranged from $2.58 to $3.50 per square foot. Comparables 1 and 2 were the closest in location to the subject property. The sales were only adjusted for time. She testified that she would also have made a 15% size adjustment; however, the adjustment would not have made a difference in the assigned value.

64. Ms. Flutcher testified that each building was costed out using the Marshall & Swift Valuation Service. She described each building, including their ages, uses, and area of mezzanine. Each building was depreciated based on its age and classification. The outbuildings were included in the subject property total building square footage. The outbuildings include a water treatment building and a portion of Building 5 that is basement area used as storage. The total square footage of the buildings was 589,038.

65. Based on the market approach, Respondent's witness presented an indicated value of $30,394,360.00 for the subject property based on local sales.

66. Respondent's witness presented 7 comparable sales ranging in sales price from $33.58 to $73.75 per square foot and in size from 121,344 to 294,984 square feet. After adjustments were made, the sales ranged from $30.56 to $53.22 per square foot.

67. Ms. Flutcher testified that her Comparable Sale 1 is located on Arrowswest and sold in May of 1997 for $11,500,000.00. Per the TD1000, it was a clean sale. The time trended sales price was $12,255,168.00. The year of construction is 1984 and she adjusted it for age at a rate of 1% per year. It is located directly across the street from HP, so she did not make a location adjustment. It is steel construction with a lot of interior finish.

68. Comparable Sale 2 is located on East Bijou in the Town and Country subdivision, an industrial park. The sale occurred in July of 1997 and was time adjusted. It was a clean sale per the TD1000 and included 4 parcels in the transaction. Two buildings shown in the aerial photo were included in the sale. Honeywell occupied it at the time of sale, and there was also a tiny office space rented to a credit union. There is some unfinished area where the dock doors are; she has no exact breakdown, but it is mostly finished. It is an average masonry building; HP is a better quality. The sale was adjusted for quality, age, size, and location. It is her smallest comparable. She used it because it was a high-tech R&D sale.

69. Comparable Sale 3 is located on Arrowswest, directly across from HP and Comparable 1. It is an A class building, which she would normally not use but it is an R&D facility. The owner uses the entire building and it has a lab area. It was known to have structural damage when it was purchased. The purchase price was $12 million. It was adjusted down for being an A class building, as well as for age, size and quality. The TD1000 confirmed it was a clean sale. It is technically two buildings connected by links. There is lots of finished area, with the finish being similar to the subject property.

70. Comparable Sale 4 is the same as Petitioner's sale, Comparable 4. It is located on Centennial. Each building has different uses. Building 1 is a storage warehouse of masonry construction with minimal to no finish and was occupied by HP. Building 2 is an industrial engineering R&D space with average masonry quality construction with sprinklers. It was also occupied by HP as an overflow. Building 3 is the nicest building with large windows and has manufacturing type HVAC in the entire facility. She is not sure exactly how much of the building was finished. The TD1000 showed it was a clean sale. It was adjusted for time, quality, age, and size.

71. Comparable 5 is located on Chapel Hills Drive. It is an older sale that occurred in October of 1994. It was trended for time. The correct square footage is 217,367. It is an above average masonry building and was adjusted for age, size, and location. The buildings are separated by Chapel Hills Drive. It was used for engineering at the time of sale but is currently more as office space than engineering. This property is similar in finished area to the subject property, with some unfinished area for storage and shipping. It was a clean, cash sale. It has been converted to office space since the sale.

72. Comparable 6 is located on Union Boulevard. It occurred in October 1994 and was trended for time. It was an HP facility until the time of sale. It is now owned by Current, who was a lessee at the time of sale. It is a better quality than the subject. It is more a manufacturing building. It was adjusted for age, quality, and location. It is 294,984 square feet in size. It was a cash sale from HP to Current. The leased space was 85,000 square feet, including a cafeteria. There was a 4-year lease in place, which was entered into approximately 1 year before the sale. It has a lot of land and parking.

73. Comparable Sale 7 is located on North Stone Avenue. It is currently occupied by Current. It is the least comparable sale. It is located across the street from a Colorado Springs power plant. The original building was built in 1959. It is mostly manufacturing, with some office space that was added in the latter part of the 1980s or early 1990s. The sale occurred in December of 1996. It was a clean sale and included 2 parcels. The extra lot is parking. The building is of masonry construction. It was time trended and adjusted for location, construction, and size.

74. Ms. Flutcher testified that she weighted all of the local comparable sales equally. The gross value was $30,394,360.00, with a gross value per square foot of $51.60.

75. Based on the market approach, Respondent's witness presented an indicated value of $17,111,554.00 for the subject property based on nationwide sales.

76. Respondent's witness presented 3 comparable sales ranging in sales price from $34.38 to $90.50 per square foot and in size from 442,000 to 552,600 square feet. After adjustments were made, the sales ranged from $29.05 to $54.43 per square foot.

77. Ms. Flutcher testified that she looked at the nationwide market as a value check. She found three comparable sales: the StorageTek property in Longmont, Colorado; the Applied Materials property in Sunnyvale, California; and the North Reading 98 Corporation property in North Reading, Massachusetts. All the sales were similar in comparability and were clean sales. She personally visited the Longmont facility in 2000. The properties were adjusted for differences in building size, site, condition, age, quality, and location. She gave the most weight to the Longmont sale.

78. Respondent's witness used the income approach to derive a value of $23,682,268.00 for the subject property.

79. Ms. Flutcher testified that her 12.03% capitalization rate, rounded to 12%, was determined using the band-of-investments method. She used actual triple net or market rents. The rents were determined on a nationwide basis using COMPS Inc. information. The Longmont property lease was adjusted for age of the property. The Massachusetts property lease was adjusted for size, age, location, design quality, and utility. The California property lease was for a large facility with a single tenant at $4.44 per square foot. She adjusted the rental rate for size, age and location. The adjusted rental rates ranged from $5.97 to $6.93 per square foot. She used $6.00 per square foot. She used 5.4% for a vacancy rate and 15% for an expense rate, due to the leases being triple net.

80. Ms. Flutcher testified that her final estimate of value was based on a 1998 Board of Assessment Appeals' (BAA) decision for tax year 1997, which was a $17,500,000.00 value. They chose not to change that value for the current level of value.

81. Ms. Flutcher testified regarding Petitioner's comparables. Petitioner's Comparable 1 was also considered by her, but she did not give it much weight, as she relied upon the local market. In the transaction, there was 60 acres of agricultural classed land; there is none at the subject property. She did not want to get into an excess land adjustment. Hewlett-Packard does not have excess land; they want a buffer. In addition, the sale building has a 400-foot long steel wall and steel roofing.

82. Ms. Flutcher testified that she spoke with the Arapahoe County Assessor's Office regarding Petitioner's Comparable 2. They had no sale details. It was a warehouse at the time of sale and still is. There were six parcels that sold. Each building has its own parcel number and there are three common area land parcels. The buildings range from 202,200 to 208,000 square feet and are a cheaper build. The finish area is 1%. It is not comparable to the subject property.

83. Ms. Flutcher testified that Petitioner's Comparable 3 is also a warehouse facility and has 89 dock doors. It was 100% leased at the time of sale and was purchased at a discount. Building 1 has 16% finished area with a wall height of 23 feet. Building 2 is 129,600 square feet with storage mezzanine, 5% finished area, and a 27-foot wall height. Building 3 has 3% finished area. The buildings are of Twin T construction.

84. Ms. Flutcher testified that Petitioner's Comparable 5 is located on a dead-end street. It has little to no office space. It is a multi-tenant storage warehouse facility. Only 5 of the property buildings were included in the sale. The newest building was built in 1998.

85. Ms. Flutcher testified regarding Petitioner's rent comparables. She testified that warehouses do not sell or rent for the same amount as a research and development (R&D) facility. They have different finish and construction. The subject is very nice and very well maintained, and the subject neighborhood has high rents.

86. Ms. Flutcher testified that she did not have much of a problem with Petitioner's Rent Comparable 1. It is an R&D facility. However, it is located very far from the subject property.

87. Ms. Flutcher testified that she could not locate Petitioner's Rent Comparable 2. She did find a lease for the building located behind the comparable. The address is in a warehouse area.

88. Ms. Flutcher testified that the balance of Petitioner's rent comparables are warehouses. Comparable 3 is a warehouse located south of Colorado Springs in a remote industrial area that never took off. The building has structural damage. It would not achieve a rent comparable to the Garden of the Gods area. Comparable 4 is a multi-tenant storage and warehouse facility. It is an old warehouse and is not comparable to the subject property. Comparable 5 is an office warehouse located near a sports complex. It is not comparable to the subject property. Comparable 6 is a storage warehouse of below average quality. It has minimal

finish and is not located in a comparable area. Comparable 7 was purchased by a partnership. It is an office and distribution warehouse of steel and masonry construction with minimal finish. When purchased, the new owners were stuck with a lease to a church. There was a vacancy problem at the time of sale. It is located in a southeastern Colorado Springs area known for lesser rents.

89. Ms. Flutcher testified that she toured the subject property facility in June of 1998. The buildings were in excellent shape and the site was well manicured. It is not being used as a warehouse, and she does not believe it could be converted to a warehouse. It is a light manufacturing facility with a cafeteria; one building is completely office space. When considering age, quality, and size, warehouses do not sell or rent for the same as an R&D facility. She does not believe the subject property could be used for a multi-tenancy facility.

90. Ms. Flutcher testified that the presence of bullpen offices in high-tech buildings, including new construction, is not unusual. The Marshall & Swift Cost Service does not make a distinction regarding hard-wall office areas, only the percent of finish.

91. Under cross-examination, Ms. Flutcher testified that she is generally familiar with the DPT Assessors Reference Library manuals. She has valued the subject property as value-in-use. The previous value was established in a 1998 BAA hearing for tax year 1997. She reviewed the value for tax year 1999 and chose to leave the value the same. In El Paso County, they chose not to change the very large (550,000 square feet and above) industrial property values. The BAA's previous decision was a factor in establishing the value of the property. The subject is an owner-occupied property.

92. Ms. Flutcher testified that most of the facility is open floor plate with personal property cubicles. She agreed that the removal of the personal property could leave a large open area, but calling it a warehouse was an over simplification. She believes this facility should be classified as R&D, not office. There is a lab area, manufacturing, clean rooms, etc. Industrial flex facility is a new term and she has not researched its meaning. She did not review the HVAC system, but does not disagree with Mr. Hinton's comments.

93. Regarding the cost approach, Ms. Flutcher testified that she calculated replacement cost using the actual physical characteristics and a blend of both replacement cost and reproduction cost. Sites sell as a package, not little parts; she has not done separate studies, but believes the market includes the ancillary buildings. The land department prepared page 18 of her exhibit. She admitted that most of the land sales are less than 15 acres in size. She would make a reduction of 15% for a land size adjustment, based on her professional experience. Her improvement value of $16,921,096.00 is a replacement cost new less depreciation. She did not calculate a gross replacement cost new. Support buildings are essential to these kinds of facilities. Each building is valued separately. The depreciation came from Marshall & Swift; she did not do her own study. She considered obsolescence, but did not observe any at the subject property, so she did not apply it. She did not observe any deferred maintenance; she specifically asked maintenance personnel if there was any.

94. Ms. Flutcher testified that she was at the subject property in late 1999. In the spring of 2000 she met with Petitioner and there was no mention of any deferred maintenance. The TechniScan report now causes her to believe she should have a new tour of the facility to verify if changes have occurred in the property.

95. Ms. Flutcher testified that her two out-of-state sales were the best sales she could find. She did not inspect them. She spoke to the county commercial appraiser for the California sale, and he said there were other uses in the area besides high-tech. She verified the characteristics of the property; it was a clean sale. She did not do an analysis of the land value. She spoke to the assessor for the Massachusetts property and he felt his sale facility was similar to the subject. The StorageTek sale was called nationwide, as it was located outside her jurisdiction.

96. Ms. Flutcher testified that she used the national sales as a test for her local sales value conclusion. She did not do a true nationwide search. She did not time adjust the national sales. The site adjustment came from the Dilmore tables. They used a 90% curve as they felt it was the most comparable. Her national sale conclusion was based heavily on the StorageTek (STK) sale, as it was located in Colorado. It occurred in May of 1997. She has seen the facility. It has 139.69 acres and the building improvements are 552,600 gross square feet. She did not calculate a land-to-building ratio. She defines excess land as land that is not needed. She believes the information regarding the STK facility is becoming convoluted. It appears that 60 acres of agricultural land is not used, but it is not necessarily excess land. The national sales were just a test, so she did not investigate excess land, correct land values, or prices per square foot. Other than the excess land adjustment, the actual quantitative adjustments are basically the same as Consultus'. She gave the most weight in her nationwide sales approach to the STK sale.

97. Ms. Flutcher admitted that all of her local sales are less than half the size of the subject. The TD1000 indicated that Sale 6, from Hewlett Packard to Current, was a good market sale. Current was a tenant at the time of sale, but was only occupying 85,000 square feet of the building under a 4-year lease, according to Consultus. She does not know whether a broker actively marketed the sale. Her Comparable 4 has 3 separate buildings, separately classified and each has a different percentage of finish. She did not inspect the property. She admitted that Comparable 5 is now an office building, but the conversion occurred after the sale.

98. Ms. Flutcher testified that her largest local sale comparable, the Current property, was almost 300,000 square feet. She time adjusted the sales. The time adjustment was determined by analysis of industrial facility sales using multiple regression; it is not specific to large industrial facilities. Size adjustments were made according to the Dilmore report, which is merely a mathematical equation based on size differences. The Dilmore data is not time sensitive. It is a general tool used in their office for consistency and uniformity. She did not have enough information to determine a time adjustment for her national sales.

99. Ms. Flutcher testified that she did not rely on the income approach.

100. In redirect, Ms. Flutcher testified that her report was prepared for this BAA hearing; she was attempting to determine the actual value of the subject property. She reviewed cost, market, and income date from 1997 and 1998 for tax years 1999 and 2000. For all three approaches, she used the actual use of the property. She could support a higher value, but she wanted to be conservative because the subject property was a larger facility. Her information regarding the Current lease came from a letter from Consultus; no lease was furnished. She believes the subject property land is a buffer, not excess land. The large amount of agricultural land caused her some concern with the STK sale; she still is hesitant to use that sale.

101. In recross-examination, Ms. Flutcher testified that she did not rely upon the cost approach. She does not believe there is excess land at the subject property; she does not know whether there is excess land at the StorageTek facility.

102. Upon questioning from the Board, Ms. Flutcher testified that the subject property is designed as a single-tenant facility; it is not likely to sell as a multi-tenant facility. She would weigh each of her approaches to value equally, except the national analysis, which was used as a value test. Regarding the mezzanine equipment area, normally the equipment is costed out as an amenity in the cost of the building. If the equipment were located on the rooftop, she probably would not consider the area as part of the building footprint. The highest and best use for the subject property is the current use.

103. Respondent assigned an actual value of $17,549,995.00 to the subject property for tax year 1999.

104. Petitioner's rebuttal witness, Mr. Steve Letman, MAI, CRE, etc., of Consultus Asset Valuation, testified that he has been inside the subject property. The subject property consists of three basic structures with minor support buildings. Two buildings were built in the 1960s; the third was built in 1975. They are of light steel frame construction with end masonry walls and mostly windows on the two long sides.

105. Mr. Letman testified that the buildings were built as flex buildings so that Petitioner could put offices or manufacturing on any floor. Petitioner's facilities have been converted to office space due to company changes, such as now doing manufacturing overseas. The facility is an open floor plate with personal property consisting of some machinery but primarily moveable office partitions. The latest versions of office partitions include wiring in the portable walls. Most of the floors are carpet/tile, which is easier to remove than standard carpet.

106. Mr. Letman testified that value-in-exchange is the standard for total actual value. In Colorado it is rare, if ever, that property is valued as value-in-use. The subject is not a special-use property. It is valued as value-in-exchange.

107. Mr. Letman testified that he looked for rent comparables of facilities over 500,000 square feet nationwide. He found three comparables: one in Colorado and 2 others out-of-state. In this appraisal, they identified the potential buyer as being one for multi-tenant use. The buildings are 137,000 to 265,000 square feet in size. They looked at a Colorado Springs publication and only found one lease of 93,000 square feet; all other leases were smaller.

108. Mr. Letman testified that he does not agree that a single user would buy the subject. In looking at facilities all over the country, they found some sales of single users, but some were not arm's length. The most common sale is to convert these types of facilities to multi-users. He has confirmed this with brokers.

109. Mr. Letman testified that he does not consider the subject property a high-tech facility. High-tech facilities have larger lab and research facilities for research and development (R&D). The subject property has no clean room environment; there is a very small lab area. The company is high-tech, but this facility is not. This facility is used primarily for administrative support staff; it has changed from manufacturing.

110. Mr. Letman testified that they did a replacement cost approach. There are always ancillary buildings. Purchasers are not concerned with the little buildings. They costed out the gross square footage, not each building. They included the useable mezzanine space. If the buildings were built today, the mechanical system would be located on the roof. They do not cost the mechanical systems separately, as they are valuing the subject property as value-in-exchange.

111. Mr. Letman testified that he has inspected the STK sale and feels it is as close to an excellent comparable as you can get. It is located in Colorado in a similar high-tech area only two counties away. The STK facility could easily be divided into three parts. The metal wall is only a small portion of the entire building and would not be relevant to the value of the building. There was excess land in the STK sale. The definition of excess land is land that is not needed to support the facility and can be sold separately. The STK land-to-building ratio is 11:1. Typical land-to-building ratios range from 3:1 to 8:1. They spoke to KB Fund, the STK buyer, and they stated that they considered the excess land to be 85 acres at $1.90 per square foot in value. Consultus did their own analysis and arrived at $2.36 per square foot; they ultimately relied on the buyer information. It would be inappropriate to use the gross sales price without making the adjustment for excess land.

112. Mr. Letman testified that he has reviewed Respondent's other two nationwide sales. He saw the California sale property and it was very similar to a Hewlett Packard facility. However, the land values in California are different than in Colorado. The average price in Colorado Springs was $1.15 per square foot; California was $17.00 per square foot and the assessor's land value for the sale property was $14.00 per square foot. The Boston land value was $2.46 per square foot. There is not a lot of comparison.

113. Regarding the Hewlett Packard/Current sale, Mr. Letman testified that he sent pages of the lease to the El Paso County Assessor, as well as the letter referred to by Ms. Flutcher. Hewlett Packard had vacated the site, and leased, basically, the first floor to Current. They could not lease out the remaining area due to Current's security requirements due to the printing of checks in the area; you could consider the lease rate half, as the balance of the facility could not be leased. This property was not placed on the market. In his opinion, Current bought it from HP at a premium as the building met their needs, even though it was too large; they felt they could grow into it. He does not consider it to be an arm's-length sale.

114. Regarding Respondent's other sales, Mr. Letman does not consider them to be good comparables: 4 of them are under 200,000 square feet. The common Sale #4, located on Centennial, is adjacent to the Garden of the Gods facility. HP leases two of the three buildings. This sale only indicates what a smaller facility in that location would sell for. The STK sale is the sale to rely upon.

115. Mr. Letman admitted that his sales are not similar in use; they are industrial distribution warehouse properties and were chosen due to their size. Admittedly, the HP facility is superior to distribution warehouses. The assessor's office looked only within their own area and should also have looked at where the market is. The STK facility is the same size as the subject, is newer, and is in a less desirable location, but nearer to Denver and Boulder. Consultus determined a value of $21.63 per square foot for the STK property; the subject property was determined to have a value of $21.04 per square foot. The sales comparison approach is the best way to value the subject. The cost approach is of limited use, and the income approach is too difficult to calculate with the limited data available.

116. Under cross-examination, Mr. Letman admitted that the subject property would work well for a single user buyer due to the flex space, if a buyer could be found. Removing the interconnecting walkways would be easy. The multi-tenant use is based on his studies. He admitted that future use could be several different scenarios for multi-tenant use. The subject property is located in an industrial area. The subject property zoning is PIP (Planned Industrial Park). A small amount of R&D is conducted on site. Typically, the research people have their office cubicles located in the research and development section. According to the HP information, 72% of the property has been classified as finished. The subject property does not have a metal wall.

117. Mr. Letman testified that the HP to Current sale was not a lease purchase, though Current had a right of first refusal. Regarding Petitioner's sales, Comparables 2, 3, and 5 are distribution warehouses. The warehouses were used to show what the largest industrial facilities were selling for in Colorado. They have nationwide sales in their files, but the BAA indicated they prefer Colorado sales, when they are available. The subject property does have some R&D components.

118. In redirect, Mr. Letman testified that it was not likely that the subject property would sell to a single user. Companies needing a 500,000 square foot facility prefer to build their own, rather than purchase an existing property and have it retrofitted. The current use is irrelevant to a potential buyer. The nationwide sales he knows of would support his value conclusion. The primary reliance was on the STK sale, which he still would have done in a nationwide analysis.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 1999.

2. Petitioner argued that the subject property would best be valued at a future use as a multi-tenancy facility, using data from multi-tenancy facilities including warehouses. Petitioner argued that the subject was similar to a warehouse due to its bullpen type office configuration. We disagree.

3. In Board of Assessment Appeals v. Colorado Arlberg Club, 762 P.2d 146, 151 (Colo. 1988), the Colorado Supreme Court held that "…reasonable future use is relevant to a property's current market value for tax assessment purposes." The court explained that Colorado's tax statute "does not preclude consideration of future uses." The court contrasted "reasonable future use" with "speculative future uses," which the court said could not be considered in determining market value for property tax purposes. The Board was not convinced that the subject property should be valued as multi-tenancy, "future use," rather than at its actual use.

4. The Board has determined that a multi-tenant use for the subject property in this hearing was not proven, by a preponderance of the evidence, to be a "reasonable future use." Petitioner presented two market sales of similar use properties. Respondent presented seven local market sales for facilities similar in use to the subject property, albeit smaller in size. We are convinced, based on the evidence and testimony presented in this case, that the highest and best use of the subject property is its current use as a single-tenant facility, and that there is enough information available to value it as such.

5. Once it determined the highest and best use of the subject property as its current use as a single user, R&D facility, the Board next carefully examined the presented evidence and testimony for each of the three approaches to value.

6. The Board first reviewed the cost approach. Petitioner's witness was not familiar with his land sales and there were numerous issues raised regarding location, zoning, and timing of the sales. He did not add entrepreneurial profit to his improvement value, but did use the Marshall & Swift R&D classification to determine the improvement value. Respondent's witness did not adjust her land sales for size, even though the subject property was much larger in acreage. She lacked some familiarity with the land sales and admitted that the land department had compiled the sales for her. Both witnesses testified that they gave little or no reliance to the cost approach. Based on the information presented, the Board gave the cost approach little weight.

7. The Board next reviewed the income approach. Petitioner's witness used multi-tenant leases and used asking rents, not actual rents. He admitted that the subject property mechanical systems would need to be broken out separately to lease to multi-tenants. His Rent Comparable 2 was not identifiable, and all but Rent Comparable 1 were warehouse leases. With only one remaining similar-use lease, the Board concluded that it could not give much weight to Petitioner's income approach. Respondent's witness testified that she did not rely upon the income approach. Therefore, the Board gave little weight to the income approach.

8. Both witnesses placed little or no weight on any indicated value from either the cost or income approaches to value. Therefore, the market approach becomes the most weighted approach to value used by both experts.

9. The Board appreciates the difficulty in locating sales of properties of similar size to the subject and as such recognizes Petitioner's emphasis on size, rather than use, for the selection of comparables. However, the Board determined that there were sufficient sales of "similar-use" facilities available to determine the subject property value without using alternate use properties.

10. The Board was not convinced that the subject property should be valued as a warehouse, due to the open bullpen office space. The facility is clearly not a warehousing facility, nor likely to become one in the future; therefore, the use of warehouse comparables would not be appropriate. The Board also notes the apparent inconsistency of Petitioner's witness in using the subject actual use as an R&D facility via the cost approach, but using a future use for the other two approaches, testifying that the subject property actual use is more office/industrial with some high tech, not an R&D facility, and then proceeding to use sales and income information from warehouses.

11. The Board carefully reviewed all of the sales presented in the testimony and evidence. As stated earlier, the Board determined that the use of warehouse properties was not appropriate; therefore, the Board gave no consideration to Petitioner's Sales 2, 3, or 5. The Board also gave no consideration to Respondent's two out-of-state sales. The Board is willing to accept out-of-state sales, so long as they are sufficiently comparable, properly adjusted, and arm's-length transactions. However, Respondent's witness did only a cursory review of these two sales and without an in-depth investigation, the Board felt the sales should be given no weight. The Board also gave no weight to Respondent's Sale 6. Petitioner's rebuttal witness testified that the property was not on the open market and was purchased by the tenant. He did not consider it an arm's-length transaction, and the Board would agree that enough questions were raised regarding the circumstances of the sale to cause the Board to disregard this sale.

12. The Board next reviewed the remaining sales. Both parties gave consideration to two common sales: Petitioner's Sale 1 and Sale 4. The Board agrees with Petitioner's witness that Sale 1 should be adjusted for excess land. The Board also agrees that the 400' metal wall and metal roof system of Sale 1 would not be a factor in the market. The Board used a standardized grid and adjusted these two sales for time, quality, size, and year of construction. The resulting values were $20.29 and $35.50 per square foot respectively. However, evidence and testimony indicated that these sales were sold for multi-tenancy conversion and multi-tenant occupancy respectively. The Board, therefore, gave them lesser weight and considered them to set the lower end of the market.

13. The Board used a standardized grid and adjusted the remaining sales for time, location, quality, construction, size, and year of construction. The resulting adjusted sales prices ranged from $44.39 to $56.87 per square foot and were very similar to Respondent's adjusted value range. The actual assigned value of the subject property is $29.79 per square foot, if calculated using Respondent's square footage including all mezzanine area, or $32.10 per square foot using Petitioner's limited inclusion of mezzanine area. The assigned value is less than the indicated value range for the subject property via the sales approach.

14. The Board concluded that the Respondent's assigned value is well supported and Petitioner's request for further relief is denied.

ORDER:

The petition is denied.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 6th day of August, 2001.

BOARD OF ASSESSMENT APPEALS

Mark R. Linné

Mark R. Linné

J. Russell Shaw

J. Russell Shaw

Karen E. Hart

Karen E. Hart

This decision was put on the record

AUG 06 2001.

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

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

Diane Von Dollen

Diane Von Dollen

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