

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SHAMROCK FOODS COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: James Reichwein Real Estate Valuation Consultants</p> <p>Address: 2515 East Taxidea Way Phoenix, AZ 85048</p> <p>Phone Number: (480) 759-2765</p>	<p>Docket Number: 39173</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 29, 2003, Rebecca Hawkins and Karen E. Hart presiding. Petitioner was represented by Jim Reichwein, Agent. Respondent was represented by Jennifer Wascak Leslie, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5199 Ivy Street, Commerce City, Colorado
(Adams County Schedule No. 0182317300025)**

Petitioner is protesting the 2001 actual value of the subject property, a single-tenant distribution warehouse situated on 23 acres and located at 5199 Ivy Street in Commerce City, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. The 2001 actual value increased 39% over the 2000 actual value.

Respondent:

Respondent contends that the subject property has been correctly valued using all three approaches to value. The primary difference between both parties' income approaches is in the market rents. Petitioner used rents from the East Denver market area, whereas Respondent used rents from the Northeast Denver market area.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. James Reichwein, presented the following indicators of value:

Income:	\$7,615,641.00
Market:	\$9,497,181.00

2. Mr. Reichwein testified that the subject property is unique; it is an extremely large building and unique in its utility. The subject property is 274,485 square feet in size and consists of 71% open shell and 29% cold storage. The level of value date is June 30, 2000.

2. Based on the market approach, Petitioner's witness presented an indicated value of \$9,497,181.00, or \$34.60 per square foot, for the subject property.

3. Petitioner's witness presented two comparable sales; however, one sale occurred beyond the level of value date and could not be considered by the Board. The remaining sale was the same as Respondent's sale 1, had a sales price of \$11,050,000.00, and was 160,750 square feet in size. The Board gave no consideration to the resale of this property as it had occurred beyond the data-gathering period.

4. The witness testified that it was difficult to find good sales due to the subject's size; it is unique for the Denver area. Respondent's sales 2 through 4 are much smaller than the subject and the necessary adjustments are outside normal appraisal parameters. Respondent's sale 5 is closer in size to the subject, but still is only 40% of the subject's size.

5. The witness testified that comparable sale 1 was part of a 1031 exchange. It had excess land and an estimated value of \$1,199,040.00, or \$2.06 per square foot. Comparable sale 1 is

located in the Northeast Denver area according to the Ross Research study, which is a higher priced market than the East Denver area. He arrived at an adjusted sales price of \$34.60 per square foot.

6. Petitioner's witness presented an income approach to derive a value of \$7,615,641.00 for the subject property, or \$27.75 per square foot.

7. Mr. Reichwein testified that Respondent used a high rental rate. Respondent's value is based on a \$4.50 per square foot rental rate, 5% vacancy rate, 20% operating expense, and a recapture rate of 10%. Respondent's rental chart on page 11 of Exhibit 1 does not identify the property address, building size, freezer area, or the time frame of the rents. Page 11 does not correspond with the data summary shown on page 9 of Exhibit 1.

8. The witness testified that he used three surveys: Ross, Collier Dow, and REI Research, to determine a rental rate. Rates varied from \$3.00 to \$6.00 per square foot. The subject property is a building with freezer area. He used a composite market rent of \$3.78, calculated using \$3.50 for open shell warehouse and \$4.50 for cold storage; he added \$1.00 per square foot for the freezer area, which he considered a reasonable assumption. He used a vacancy rate of 6.6%. He agrees with Respondent's 20% operating expenses and 10% recapture rate.

9. Petitioner's witness did not present a cost approach to value the subject property.

10. Mr. Reichwein testified that he used a weighted analysis for his value conclusion. He did not ignore the market approach, but gave it 25% weight and gave 75% weight to the income approach. He concluded to \$29.46 per square foot multiplied by the subject's square footage of 274,485, for a total value of \$8,087,014.00.

11. Under cross-examination, Mr. Reichwein testified that the subject property is in average condition for its location. It is in the East Denver area. The Ross study was the only study that broke Denver into areas; the other studies did not break the data into separate market areas. The median rental rate in the Northeast area is \$4.50 per square foot, but the data used to determine the median is not furnished. He instead used an average of rents. He admitted that comparable sale 2 occurred outside the time frame, but he did not give it much weight anyway.

12. Upon questioning by the Board, Mr. Reichwein testified that the Ross Research study map as shown on page 5 of Petitioner's Exhibit A indicates that the subject property is located in the East Denver market; it is south of Interstate 270.

13. Petitioner is requesting a 2001 actual value of \$8,087,014.00 for the subject property.

14. Respondent's witness, Mr. Terry Blake, a Registered Appraiser with the Adams County Assessor's Office, presented the following indicators of value:

Market:	\$13,000,000.00
Cost:	\$18,500,000.00
Income:	\$ 9,387,400.00

15. The witness testified that Petitioner's business operation supplies schools, and institutions with food products and serving accessories such as trays and warmers. The subject is located in an industrial area. The UPS building is located across the road from the subject and is 600,000 square feet in size. Colorado Auction is located on 60 acres and is near the subject as well. The location is good; it is located in close proximity to Interstates 70, 25, and 270. The building condition is above average.

16. Mr. Blake testified that he considered the cost, income, and market approaches. He relied most on the income approach. He did not place significant weight on the market approach, as there are few similar sales.

17. Based on the market approach, Respondent's witness presented an indicated value of \$13,000,000.00 for the subject property.

18. Respondent's witness presented five comparable sales ranging in sales price from \$2,621,908.00 to \$11,050,000.00 and in size from 56,460 to 160,750 square feet. After adjustments were made, the sales ranged from \$3,042,437.00 to \$8,033,000.00, or \$40.53 to \$58.41 per square foot.

19. The witness testified that comparable sale 1 was built in 1998 and was very comparable to the subject. It has a detached office area with a common wall and has some cold storage and freezer space. It is located three miles north of the subject in a relatively new area that the witness initially thought was superior to the subject. In retrospect, the witness now believes the comparable's location is similar to the subject. It has excess land, so he used a \$1.50 per square foot adjustment for the land-to-building ratio. Sale 1 had a tenant in place at the time of sale. The lease rate was \$6.77; it was a 1998 triple net lease. He does not believe the 1031 exchange was a factor in the sales price, though the lease may have been.

20. The witness testified that he did not give significant weight to the remaining sales. Sale 2 has some cold storage, but is a multi-tenant building. Sale 3 is in the same business as the subject. Sale 5 was purchased by Big A Auto Parts and has no cold storage; it was included in his analysis due to its large size.

21. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$18,500,000.00.

22. Respondent's witness used the income approach to derive a value of \$9,387,400.00 for the subject property.

23. Mr. Blake testified that he places the subject property in the Denver Northeast industrial sector, which has less than 1% vacancy for single tenant industrial properties. He applied a

5% vacancy, based on the assessor's surveys from the subject's area for all different types of industrial buildings. The East area has a higher vacancy rate. He spoke with a representative of Ross Research, and based on the subject property's address, she placed it in the Northeast sector. Ross follows the Adams County boundary line for sector boundaries.

24. Mr. Blake applied \$4.50 per square foot for market rent, based on the assessor's confidential income questionnaires. His rents are from buildings over 50,000 square feet. He thinks Petitioner's rent is a little low due to its cold storage facility; there is a blast freezer with 1,258,500 cubic foot of freezer area. He reiterated that Respondent's comparable sale 1 sold with a lease in place at \$6.77 per square foot. Properties with refrigeration facilities rent and sell for quite a bit more than a property that is just a dry storage shell building. Respondent did not include the subject's 18,000 square foot mezzanine in his income analysis.

25. Under cross-examination, Mr. Blake testified that his rental rates are for buildings that have approximately 50% refrigeration area; all the buildings are above 100,000 square feet in size. His rental study was conducted within Adams County. There are possibly 10 to 15 food storage facilities in Adams County; the majority are dry storage buildings. Generally, 50,000 square foot buildings are not good comparables for a 200,000 square foot building, but there was a lack of buildings similar in size to the subject. Their survey included eight to ten buildings. The subject property is not a rental property.

26. Upon questioning by the Board, Mr. Blake testified that the adjusted average lease rate for comparable sale 2 averaged \$5.00 per square foot. He made adjustments in the rental rate for the size of the comparables as compared to the subject.

27. In recross, Mr. Blake testified that he personally measured the addition and the cold storage area. The freezer area is 2,458,500 cubic feet; there is an additional area that is utilized as cold storage.

28. Respondent assigned an actual value of \$9,387,420.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2001 valuation of the subject property was correct.

2. Petitioner did not present a cost approach and Respondent did not rely upon its cost approach conclusion in the final value estimate. The Board agrees this approach should be given little weight in the actual value determination of the subject property.

3. Regarding the sales comparison approach, Petitioner presented only one sale that occurred during the appropriate time frame, which was also a sale used by Respondent. The Board considered this common sale, though the Board gave little weight to the sales comparison approach in the final analysis, as one sale is not adequate to determine a value with any degree of certainty.

Respondent's remaining sales were much smaller than the subject and thus would not be the most reliable indicators of value.

4. Both parties relied primarily on the income approach and the area of disagreement is in the market rental rate and the vacancy rate. The parties agree on the expense ratio and capitalization rate.

5. Petitioner relied upon published data from the East sector of Denver. Respondent argued that the subject is located in the Northeast sector, which experiences lower vacancy and higher rental rates. The Board was convinced that the subject property should be placed in the Northeast sector market and that Respondent's \$4.50 per square foot rental rate for the subject was supportable. The subject property, though a large building, has refrigeration space, which we believe would allow the subject to command a market rental rate from the upper end of the published industrial building rent range. Respondent's rent survey of actual industrial buildings with areas of refrigeration, and the lease rate of \$6.77 in place for comparable sale 1 also lend support to the concluded rental rate. The Board reviewed all of the evidence regarding the vacancy rate and ultimately determined that Respondent's vacancy rate documentation was more convincing.

6. After careful review of all of the testimony and evidence presented, the Board affirms Respondent's assigned value of \$9,387,420.00.

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 5th day of November, 2003.

BOARD OF ASSESSMENT APPEALS

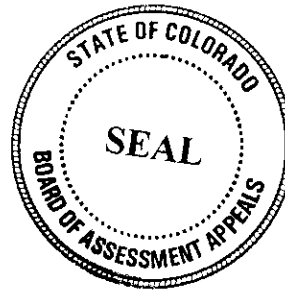
Karen E. Hart
Karen E. Hart

Rebecca Hawkins
Rebecca Hawkins

This decision was put on the record

NOV 05 2003

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



Penny S. Lowenthal
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