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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ST. PAUL PROPERTIES, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p> | |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq. Address: 3962 South Olive Street Denver, Colorado 80237 Phone Number: (303) 759-0087 Attorney Reg. No.: 6941</p> | <p>Docket Number: 39960</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on July 9, 2003, Karen E. Hart and Judee Nuechter presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Maria Kayser, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6795 Sandown Road, Denver, Colorado
(Denver County Schedule No. 01204-00-013-000)**

Petitioner is protesting the 2001 actual value of the subject property, a four building industrial warehouse distribution center situated on 13.9 acres, located at 6795 Sandown Road, Denver, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued due to functional issues at the complex. The income approach is the most appropriate method of value.

Respondent:

Respondent agrees that the income approach is the most reliable indication of value. Respondent contends that the rent and the capitalization rate they used are more accurate and appropriate. The market approach also supports their income conclusion.

FINDINGS OF FACT:

1. All testimony and exhibits from Docket No. 39954, including opening and closing statements, are incorporated into this docket. as applicable to the subject property.

2. Petitioner's witness, Mr. Todd Stevens, Registered Appraiser, and agent for the Petitioner, presented the following indicators of value:

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| Market: | \$9,933,000.00 |
| Income: | \$8,451,997.00 |

3. The witness testified that the subject property consists of four buildings of 148,684 square feet, 34,800 square feet, 72,000 square feet, and 99,750 square feet, respectively. There may be some functional issues due to the configuration of the buildings. In addition, the existing buildings have limitations such as interior walls that cannot be moved, as well as some conflict between tenants regarding unloading of tractor-trailers due to the layout of the buildings on the lot.

4. Mr. Stevens testified that one tenant paid a lease rate of \$3.50 per square foot after the office was repainted and new carpet was included in the lease. If those improvements were deducted, the rent would be \$3.25 per square foot.

5. In cross-examination, the witness testified that industrial property owners and brokers in the immediate area indicated in a survey that this area used to be a more desirable location due to Stapleton Airport, which is now closed. Warehouses closer to the newer Denver International Airport are now more desirable than the subject's location.

6. Petitioner is requesting a 2001 actual value of \$8,800,000.00 for the subject property.

7. Respondent's witness, Larry George, a Certified General Appraiser with the Denver County Assessor's Office, presented the following indicators of value:

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|---------|-----------------|
| Market: | \$11,747,600.00 |
| Cost: | \$11,281,500.00 |
| Income: | \$10,582,300.00 |

8. The witness testified that he does not agree with the Petitioner that there are functional issues with the buildings. Instead, that factor could be a positive influence since smaller size buildings could allow smaller tenants. Respondent's Sales #1, #3, and #4 are also multi-building properties and more similar to the subject. He felt comfortable with the sales and he gave equal weight to the market approach and to the income approach.

9. During cross-examination, the witness testified that with two buildings out in the open, tenants can access both sides of the building, which may be an advantage. He indicated that there is an existing fence on the property going west to the corner of a building and was tenant induced.

10. Respondent recommended a reduction to \$11,165,000.00 from the assigned value of \$11,496,800.00 for the subject property for tax year 2001.

CONCLUSIONS:

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

2. The Board carefully examined the appraisal reports and analyses and reviewed all of the testimony presented. The Board recognizes that the income approach is the most appropriate method of valuation for income producing properties, as a potential investor would rely primarily on this approach. Both parties also agreed that the income approach was the best indicator of value.

3. Regarding the capitalization rate, the Board recognizes that the preferred method for ad valorem taxation purposes is to load the tax rate into the total capitalization rate. The Board notes that the taxes were already in the Petitioner's analysis and that the capitalization rate should not be adjusted. The Board was convinced that the appropriate capitalization rate for the subject property should be 11 percent, which was used by the Respondent and was based on published sources and available income information from the Assessor's Office.

4. The Board was convinced that the Respondent's rental income was too high. The Respondent relied on published data and four comparable rental properties in determining a rental rate. The Board was most persuaded by the Petitioner's eight comparables; they were most similar to the subject property with consideration given for the actual rental income of the subject as indicated by the Petitioner.

5. The Board was most convinced that the Respondent applied the appropriate vacancy rate in their analysis based on published data, surveys and testimony that indicated decreasing vacancies and increasing sales in the strong economic climate taking place during the base period.

6. The Board determined that the appropriate rental rate for the subject property should be \$3.25 per square foot, multiplied by 355,234 square feet, indicating a potential gross annual income of \$ 1,154,510.00. Using Respondent's vacancy rate of 7 percent, a 13 percent expense deduction before property taxes, and an 11 percent capitalization rate, the Board has concluded to an indicated value of \$8,491,945.00 or \$23.91 per square foot for the subject property using the income approach. This is the same methodology used in docket 39954 and has resulted in a lesser value than requested by Petitioner.

7. The Board concluded that the actual value of the subject property should be reduced to \$8,491,945.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$8,491,945.00.

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

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 9th day of September, 2003.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Judee Nuechter

Judee Nuechter

This decision was put on the record

SEP 08 2003

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

Penny S Lowenthal
Penny S. Lowenthal

