

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KENNETH R. DOUGLAS,</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: Elite Property Services Inc. Address: 6000 E. Evans Ave., Ste 1-426 Denver, Colorado 80222 Phone Number: (303) 355-5871</p>	<p>Docket Number: 42762</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 24, 2004, Karen Hart and MaryKay Kelley presiding. Petitioner was represented by Elite Property Services, Inc., agent. Respondent was represented by Chuck Solomon, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2600 and 2620 West 2nd Avenue, Denver, Colorado
(Denver County Schedule No. 05084 08 022 000)**

Petitioner is protesting the 2003 actual value of the subject property, which consists of two buildings used as warehouses.

ISSUES:

Petitioner:

Petitioner contends that the economic downturn following the September 11, 2001, terrorist event resulted in increased vacancy, loss of revenue, and increased expenses and that actual vacancy and income should have been used for the 2003 valuation.

Respondent:

Respondent contends that the subject property was correctly valued for tax year 2003 based on market and income approaches to value.

FINDINGS OF FACT:

1. The subject property consists of two multi-tenant brick buildings built in 1967. The building at 2600 West 2nd Avenue has 15,207 square feet with 6,487 square feet of office space and five units. The building at 2620 West 2nd Avenue has 5,684 square feet with 3,314 square feet of office space and three units.

2. Petitioner's witness, Dan Mayer, representing Elite Property Services, Inc., presented the following indicators of value:

Market:	\$846,200.00
Income:	\$550,700.00

3. Based on the market approach, Mr. Mayer presented an indicated value of \$846,200.00 for the subject property. Because he could not find good multi-tenant sales, he placed no reliance on this approach.

4. Mr. Mayer presented four comparable sales within the base period ranging in sales price from \$359,600.00 to \$1,609,000.00, in price per square foot from \$38.20 to \$44.58, and in size from 9,000 to 38,608 square feet. No adjustments were presented, but adjusted prices per square foot were reported as ranging from \$38.20 to \$42.06, the average being \$40.51 and equaling an estimated value of \$846,190.00.

5. Mr. Mayer presented an income approach to derive a value of \$550,000.00 for the subject property.

6. Mr. Mayer used a rental rate of \$6.35 based on actual income after taxes, a 33% stabilized vacancy rate based on an actual 2002 vacancy of 37%, and expenses of \$24,252.00 or 27% to arrive at a net operating income of \$64,629.00. He used a base rate of 9.49% plus an effective tax rate of 1.74% and accounted for a higher risk building to arrive at an overall capitalization rate of 11.74%. The indicated value of the subject property based on the income approach was

\$550,700.00.

7. Mr. Mayer testified that the gross income for the subject property of \$78,831.00 in 2001 fell to \$45,754.00 in 2002 following the September 11 terrorist event and subsequent economic decline, and the vacancy rate increased to 37% in 2002. He was not provided with 1999 or 2000 income statements for comparison.

8. Mr. Mayer testified that Respondent's appraisal did not adequately address the economic downturn following September 11, 2001, at which time vacancy rates increased and lease rates dropped. He testified that the Respondent's market comparables do not reflect the post-September 11 market and that actual vacancy rates would be reviewed by a potential buyer and should have been used.

9. Petitioner is requesting a 2003 actual value of \$767,000.00 for the subject property.

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

Market:	\$1,103,000.00
Cost:	\$1,059,633.00
Income:	\$1,039,200.00

11. Based on the market approach, Respondent's witness presented an indicated value of \$1,103,000.00 for the subject property.

12. Respondent's witness presented five comparable sales located within one mile of the subject ranging in sales price from \$417,600.00 to \$1,600,000.00 and in size from 4,800 to 28,672 square feet. Adjustments were made for age, utility, and single-tenant occupancy adjusted at 5% for greater risk. After adjustments were made, they ranged from \$1,088,000.00 to \$1,890,200.00, and the adjusted price per square foot ranged from \$52.08 to \$90.48. Excluding Sale 4, which is considerably smaller, the range was \$52.08 to \$75.07. Respondent applied a price per square foot of \$52.80 to the subject property for an indicated value of \$1,103,000.00.

13. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,059,633.00. Cost figures, specific for each building, are outlined in Respondent's Exhibit 1. The cost approach was given no weight in Respondent's final reconciliation of value.

14. Respondent's witness presented an income approach to derive a value of \$1,039,200.00 for the subject property.

15. Mr. George used a modified gross income rental rate of \$6.50 based on five rental comparables in the immediate area, a vacancy and collection rate of 5% based on a southwest Denver survey reporting 5% vacancy south of Colfax Avenue and 9% vacancy to the north. He used a 13% expense rate and a capitalization rate of 10.8% that assumes some owner-paid expenses and includes a tax load.

16. Mr. George testified that Petitioner's 33% vacancy rate was reflective of a specific time period rather than representative of the life of a property. He reviewed Petitioner's actual income exhibit but had difficulty reading the hand-written 2001 rent rolls and could not determine the actual lease rate or occupancy.

17. Mr. George testified that Petitioner's Comparable Sale 1 was a lower-quality metal building accessed by a gravel road with railroad track frontage and thus sold for less. Comparable Sale 3 had three additions over a seven-year period with functional obsolescence and was, therefore, not a reliable sale. Comparable Sale 4 is not reflective of the market, as it was purchased by RTD for the land and the buildings were subsequently demolished.

18. Respondent assigned an actual value of \$1,079,400.00 to the subject property for tax year 2003; however, based upon the material presented in the appraisal analysis, Respondent is recommending a reduction in value to \$1,071,100.00.

CONCLUSIONS:

1. Sufficient probative evidence and testimony were presented to prove that the valuation of the subject property for tax year 2003 was incorrect.

2. The Respondent presented a more convincing income approach with use of stabilized expense and vacancy rates over the lives of comparable properties. Petitioner's actual vacancy and expense figures reported data within a temporary period of economic distress and were not supported by long-term data.

3. Both parties reported a lack of multi-tenant sales data, but the Board put greater weight on Respondent's market approach because it addressed this issue and appropriate adjustments were made to the comparable sales.

4. After careful consideration of all of the testimony and evidence presented, the Board determined that the 2003 actual value of the subject property should be reduced to Respondent's recommended value of \$1,071,100.00.

ORDER:

The petition is granted. 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 28th day of July, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E. Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

JUL 28 2004

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

