

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

Petitioners:

**RICHARD E. AND SUE A. MAHON,**

v.

Respondent:

**DENVER COUNTY BOARD OF EQUALIZATION.**

Attorney or Party Without Attorney for the Petitioners:

**Docket Number: 42935**

Name: Mr. Joseph C. Marx  
Colliers Bennett & Kahnweiler, Inc.  
Address: 13900 E. Harvard Ave., Suite 210  
Aurora, Colorado 80014  
Phone Number: (303) 745-5800

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on March 22, 2005, Diane M. DeVries and Steffen A. Brown presiding. Petitioners were represented by Mr. Joseph C. Marx. Respondent was represented by Charles T. Solomon, Esq. Petitioners are protesting the 2003 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**358 S. Navajo Street, Denver, Colorado  
(Denver County Schedule No. 05161-04-011-000)**

The subject property consists of two metal warehouse buildings built in 1981 and 2002, respectively.

## **ISSUES:**

### **Petitioners:**

Petitioners contend that the subject property was overvalued for tax year 2003 based on an appraisal of the original property, plus the cost to construct the second building.

### **Respondent:**

Respondent contends that the subject was correctly valued considering all three approaches to value.

## **FINDINGS OF FACT:**

1. Mr. Joseph C. Marx of Colliers Bennett & Kahnweiler, Inc. presented Petitioners' Exhibit B, a detailed list of the costs associated with constructing the 4,500 square foot warehouse building that was added to the property during calendar year 2002. Mr. Marx testified that the total cost of this building was \$248,271.73 or \$55.17 per square foot. Mr. Marx also presented Petitioners' Exhibit A, an appraisal prepared by DYCO Real Estate, Inc. for U.S. Bank. The appraised value as of March 22, 2002 for the 16,160 square foot warehouse built in 1981 was \$710,000.00.

2. Based on the sum of the cost for the 4,500 square foot warehouse and the value derived from the market approach for the 16,160 square foot warehouse, Mr. Marx presented a total indicated value of \$958,000.00.00 (rounded) for the subject property.

3. Petitioners' witness, Mr. A. Mark Dyson, a Certified General Appraiser with DYCO Real Estate, Inc., testified that he was retained by U.S. Bank to complete a limited appraisal on the 16,160 square foot warehouse. Mr. Dyson presented four comparable sales ranging in sales price from \$329,000.00 to \$950,000.00 and in size from 7,500 to 22,003 square feet. The unadjusted price per square foot of the comparables ranged from \$43.18 to \$50.00. After adjustments, the comparable sales ranged from \$43.41 to 50.00 per square foot.

4. Mr. Dyson testified that he only completed the market approach to value since properties of this size and use are best suited to owner-occupants, not investors. Mr. Dyson testified that the cost approach would be a potential indicator of value, but that it would not be relevant due to the limited availability of land sales.

5. Under cross-examination Mr. Dyson testified that he was retained by U.S. Bank to complete the appraisal for underwriting purposes and that he did not know the motivation of the owner. With regard to Sale 1, Mr. Dyson testified that there is a correlation between size and price: the bigger the building the smaller the unit price. However, he also indicated that the correlation might not exist within a range of up to 25,000 square feet. Sale 2 was similar in size to the subject

but he believes the buyers were atypically motivated and that they paid above market value for the property. Mr. Dyson testified that the indicated price of \$50.00 per square foot for Sale 2 is higher than could be expected for the subject property. Since Sale 3 was purchased with \$5,000.00 in deferred maintenance for the parking lot, Mr. Dyson applied a positive adjustment of \$0.23 per square foot. Mr. Dyson testified that, although Sale 4 was superior to the subject, he made no quantitative adjustments.

6. Mr. Dyson testified that he did not complete a cost approach at the request of the client. He did not complete an income approach, as the property was owner-occupied. Had he completed an income approach based on an investor-owned property, it would have resulted in an under valuation since the income approach is about risk.

7. Petitioners are requesting a 2003 actual value of \$958,271.00 for the subject property.

8. Respondent's witness, Mr. Rick Rutt, a Certified General Appraiser with the Denver County Assessor's Office, presented the following indicators of value:

Market:	\$1,143,600.00
Cost:	\$944,500.00
Income:	\$1,190,500.00

9. Mr. Rutt testified that the 16,160 square foot warehouse is a metal building with a wall height of 15 feet and approximately 3,256 square feet of office space. The 4,500 square foot warehouse is a metal structure with a wall height of 19 feet.

10. Based on the market approach, Respondent's witness presented an indicated value of \$1,143,600.00 for the subject property.

11. Respondent's witness presented four comparable sales ranging in sales price from \$600,000.00 to \$1,600,000.00 and in size from 10,200 to 24,083 square feet. After adjustments were made, the sales ranged from \$981,763.00 to \$1,372,650.00 or from \$47.52 to \$66.44 per square foot.

12. Mr. Rutt testified that he analyzed sales located in the southwest corridor that were similar to the subject in size, age and wall height. As shown on page 23 of Respondent's Exhibit 1, adjustments were made for building size, year of construction, location, wall height, office area and land-to-building ratio. In general, Mr. Rutt agreed with Mr. Dyson regarding the correlation between building size and price per square foot; however, he applied a negative 10% adjustment to Sale 4 since it was half the size of the subject. Based on his appraisal experience, Mr. Rutt applied a 1% adjustment for every two feet of difference in wall height, and a 1% office area adjustment for every 2% of area difference. Mr. Rutt correlated the indicated prices to a mean value of \$55.36 per square foot for a total value of \$1,143,600.00.

13. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$944,500.00. Mr. Rutt testified that little weight was placed on this approach due to the age of the original building.

14. Respondent's witness used the income approach to derive a value of \$1,190,500.00 for the subject property.

15. Mr. Rutt used a mean rental rate of \$7.53 per square foot, which is typical of warehouse buildings located within two miles of the subject. A vacancy rate of 5% is typical for warehouse properties located in the southwest area, and expenses of 13% were obtained from a survey. As shown on page 28 of Respondent's Exhibit 1, the capitalization rate of 10.8% was based on sales and published rates. Mr. Rutt correlated to a value of \$1,167,000.00 based on the income approach.

16. Mr. Rutt agreed with Mr. Dyson's assertion that properties similar in size to the subject are usually, but not exclusively, owner-occupied. As to Petitioners' sales, Mr. Rutt testified that the year of construction on Sale 1 was blended, the building was smaller, and that the land size was 10 times larger. Petitioners' Sale 2 should not have been used if the owner paid above market price. Petitioners' Sales 3 and 4 were not adjusted for time. Mr. Rutt further testified that combining the market approach and a cost approach to arrive at an opinion of value for the subject was not appropriate appraisal practice. In addition, Petitioners' cost figures did not include profit, and therefore, the estimated value is low.

17. Respondent assigned an actual value of \$1,067,000.00 to the subject property for tax year 2003.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2003 valuation of the subject property was correct.

2. The Board could give little weight to Petitioners' market approach on the 16,160 square foot warehouse, as only one qualitative adjustment was made to one of the four comparable sales presented. The Board is convinced that additional quantitative adjustments should have been applied to Petitioners' comparable sales.

3. Combining the detailed cost of one structure with the value derived from a market approach appraisal of another structure does not adhere to any accepted appraisal practice.

4. Based on testimony from both parties, that properties similar to the subject are mostly owner-occupied rather than investor owned, the Board concludes that the income approach to value would be less reliable. Nonetheless, the Board believes that the income approach should be considered as a test of reasonableness and that it should reflect market trends for properties similarly situated. The Respondent's determination of value is supported by their income approach, which was based on appropriate rental, expense and capitalization rates.

5. Respondent presented a well-supported and documented appraisal report that included all three approaches to value. Appropriate adjustments were made to all of the comparable sales.

6. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent assigned value of \$1,067,200.00 for the tax year 2003

**ORDER:**

The petition is denied.

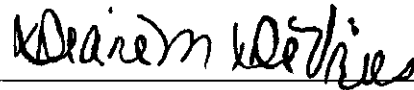
**APPEAL:**

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

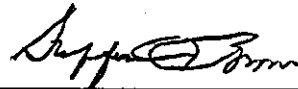
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

**DATED and MAILED** this 20<sup>th</sup> day of April 2005.

**BOARD OF ASSESSMENT APPEALS**



Diane M. DeVries

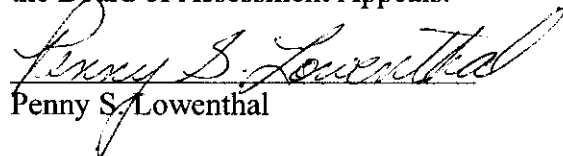


Steffen A. Brown

This decision was put on the record

**APR 19 2005**

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



Penny S. Lowenthal

