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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>LEHRER'S FLOWERS 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: Beldon Wright Property Tax Advisors, Inc. Address: 3090 S. Jamaica Ct., Suite 200 Aurora, Colorado 80014 Phone Number: (303) 368-0500</p> | <p>Docket Number: 42960</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 17, 2004, Karen E. Hart and Sondra W. Mercier presiding. Petitioner was represented by Beldon Wright. Respondent was represented by Charles T. Solomon, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1165 South Jason Street, Denver, Colorado
County Schedule No. 5211-03-004**

Petitioner is protesting the 2003 actual value of the subject property, a 9,067 square foot warehouse built in 1961 on a 19,050 square foot site. The property includes approximately 2,804 square feet of office area.

ISSUES:

Petitioner:

Petitioner contends that Respondent's comparable sales are from a larger market area and do not represent the subject's market.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003. Respondent's comparable sales were selected based on their owner/user status and their location proximate to the subject. Respondent believes that the market approach is the best indicator of value, as the cost and income approaches do not adequately reflect the additional value placed on this type of property by owner/user buyers.

FINDINGS OF FACT:

1. Petitioner's witness, Beldon Wright with Property Tax Advisors, Inc., presented the following indicators of value:

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|---------|--------------|
| Income: | \$426,400.00 |
| Market: | \$390,400.00 |

2. Based equally on the market and income approaches, Petitioner's witness presented an indicated value of \$408,400.00 for the subject property.

3. In his income analysis, Mr. Wright concluded to a net rental rate of \$5.50 per square foot based on rates reported by CoStar. Mr. Wright indicated that this rate would represent the high end of the range of rental rates for the subject, as it represented asking, rather than actual, rental rates. Mr. Wright used a 5 percent vacancy rate, a 10 percent expense deduction and a 10 percent capitalization rate to determine a value of \$426,400.00 for the subject.

4. In the market approach, Mr. Wright presented five comparable sales, with sales prices ranging from \$32.25 to \$47.99 per square foot. After adjustments, the comparable sales indicated a value range of \$37.24 to \$49.44 per square foot. The witness concluded that the most comparable sale was the June 2002 sale of 1178-1180 S. Kalamath Street, with an adjusted value of \$43.06 per square foot.

5. Petitioner is requesting a 2003 actual value of \$408,400.00 for the subject property.

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

| | |
|---------|--------------|
| Cost: | \$443,100.00 |
| Market: | \$599,400.00 |
| Income: | \$481,600.00 |

7. Using a land value of \$11.00 per square foot and a depreciated building cost of

\$25.76 per square foot, Mr. Rutt concluded to a value based on the cost approach of \$443,100.00 (rounded).

8. Mr. Rutt presented four comparable sales with unadjusted values ranging from \$67.17 to \$81.17 per square foot. Respondent's Comparable Sales 1 and 4 sold one month prior to the base period, in December 2000, with an unadjusted price range of \$67.17 to \$81.17 per square foot. Respondent's Comparable Sale 3 sold in January 2001 for an unadjusted price of \$68.44 per square foot and Comparable Sale 2 sold in August 2001 for an unadjusted price of \$71.43 per square foot. Mr. Rutt testified that he included the two older sales because they represented the most comparable sales for location and size.

9. Mr. Rutt testified that it was important to find sales that would be used all or in part by the purchaser, representing owner/user sales. He indicated that the prevailing buyers in the subject's area for this building type are owner/users.

10. Using a rental rate of \$6.94 per square foot based on rent comparables and a capitalization rate of 10.8%, Mr. Rutt concluded to a value based on the income approach of \$481,600.00 (rounded).

11. In closing, Mr. Wright stipulated to the valued indicated by Respondent's cost and income approaches.

12. Mr. Rutt concluded to a value of \$599,400.00 for the subject property.

13. Respondent assigned an actual value of \$598,900.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. Petitioner's income approach was based on asking rents and the data was not independently verified. Petitioner also did not verify the sales prices or other data in the market approach. Although the Board agrees that CoStar data is usually reliable, we gave more weight to Respondent's data, as it was independently verified by either the witness or Denver County Assessor personnel.

3. The Board gave little weight to Respondent's cost approach due to the age of the building and the fact that potential purchasers rarely rely upon this approach. The Board gave less weight to the income approach, as Respondent's witness convinced us that values for properties such as the subject were driven by the market approach due to the owner/user nature of the immediate neighborhood marketplace.

4. The Board was convinced that Respondent's market approach provided sufficient support for the assigned value. The Board was convinced that the Respondent's sales were similar to the subject in location, condition and size. Reasonable adjustments were made to the comparable sales, and three of the four sales indicated a very narrow range of value. The assigned value is well within the narrow range indicated by the comparable sales.

5. After careful consideration of all of the testimony and evidence presented, the Board affirms the assigned value of \$598,900.00 for tax year 2003.

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 30th day of September 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Sondra W. Mercier
Sondra W. Mercier

This decision was put on the record

SEP 30 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

