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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 S. Olive Street Denver, Colorado 80237-2038 Phone Number: (303) 759-0087 Attorney Reg. No.: 6941</p> | <p>Docket Number: 43041</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 31, 2004, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Laurie J. Heydman, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4355 Monaco Parkway, Denver, Colorado
(Denver County Schedule No. 01202-00-121-000)**

Petitioner is protesting the 2003 actual value of the subject property, an industrial warehouse built in 1973.

ISSUES:

Petitioner:

Petitioner contends that the Respondent did not consider the subject property's actual 45% vacancy rate or vacancy-related management fees and expenses in the income approach.

Respondent:

Respondent contends that the Petitioner selected excessively low rental data from other neighborhoods and that use of actual vacancy rates is inappropriate and not market based.

FINDINGS OF FACT:

1. The subject property, located on a 1.33-acre site, is a concrete industrial warehouse with two units. The subject fronts Monaco Street in the Stapleton area with good access to I-70. The Petitioner reported 32,694 net rentable square feet: one unit of 17,902 square feet, including 800 square feet of office space, was leased during the base period for \$3.25 per square foot; the other unit has 14,792 square feet with no office space and was vacant during the base period. Respondent reported 31,739 square feet that includes 3,019 square feet of office space.

2. Petitioner's witness, Todd J. Stevens, a Registered Appraiser with Stevens & Associates Cost Reduction Specialists, Inc., presented the following indicators of value:

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| Market: | \$719,268.00 |
| Income: | \$606,515.00 |

Mr. Stevens did not use the cost approach due to the age of the subject improvements and significant depreciation.

3. Mr. Stevens presented five comparable sales ranging in sales price from \$20.74 to \$38.00 per square foot and in size from 19,766 to 100,160 square feet. After adjusting for time, location, age, vacancy, condition, land, and size, the sales ranged from \$12.45 to \$28.12 per square foot. Mr. Stevens concluded to an indicated value of \$22.00 per square foot for the subject property. He placed little reliance on the market approach, citing limited data during the base period.

4. Mr. Stevens presented an income approach to derive a value of \$606,515.00 for the subject property. He used a rental rate of \$3.00 per square foot based on a survey of eight unadjusted NNN leases ranging from \$2.60 to \$3.25 per square foot. He applied a vacancy allowance of 25%, which was based on a Ross Research Service estimate of 15.28% for East Sector multi-tenant industrial warehouses, on a CoStar estimate of 15.6% for the second quarter of 2002 in the East I-70/Montbello submarket, and an actual 45% vacancy rate for the subject during the base period.

Citing that half of the subject building (one suite) was vacant during the base period, he used a management fee of 3%, expenses of 15%, and a capitalization rate of 10%.

5. Petitioner is requesting a 2003 actual value of \$625,000.00 for the subject property.

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

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| Market: | \$1,190,213.00 |
| Cost: | \$1,073,600.00 |
| Income: | \$1,065,600.00 |

7. Based on the market approach, Mr. George presented an indicated value of \$1,190,213.00 (\$37.50 per square foot) for the subject property.

8. Mr. George presented four comparable sales ranging in sales price from \$747,534.00 to \$1,280,000.00, (\$36.77 to \$51.66 per square foot) and in size from 20,330 to 28,899 square feet. After adjustments for age, wall height, office area, and land were made, the sales ranged from \$37.19 to \$43.68 per square foot.

9. Mr. George used Marshall & Swift cost data to derive a market-adjusted cost value for the subject property of \$1,073,600.00 but gave this approach no weight in final reconciliation.

10. Mr. George used the income approach to derive a value of \$1,065,600.00 for the subject property. He used a modified gross rental rate of \$4.58 per square foot based on five leases ranging from \$3.24 to \$5.89 per square foot. After adjustment, the leases ranged from \$3.11 to \$6.53 per square foot. Mr. George relied on Comparable Leases 1 and 5 with adjusted rates of \$4.31 and \$4.85 per square foot respectively. His vacancy rate was based on a 2002 mid-year Ross Report citing an East Industrial single-tenant vacancy rate of 3.93% and multi-tenant rate of 13.80%. Mr. George reconciled to a 9% median rate, reflecting the stabilized life of the property. He used an expense rate of 13%, and a capitalization rate of 10.80%.

11. Respondent assigned an actual value of \$1,070,300.00 to the subject property for tax year 2003, but is recommending a reduction to \$1,065,600.00.

CONCLUSIONS:

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

2. The Board agrees with both parties that the income approach is the most appropriate method of valuing income-producing properties.

3. The Board determined that the appropriate rental rate for valuing the subject property is \$3.25 per square foot NNN. Consideration was given to Petitioner's Comparables 1 and 3, located near the subject with lease rates of \$3.25 per square foot each. Petitioner's actual lease of \$3.25 per square foot was given considerable weight.

4. The Board was persuaded by Respondent's use of a 9% vacancy rate. Petitioner's actual 45% vacancy is not market based and not reflective of an expected vacancy rate over the life of the property.

5. The Board determined that a 3% management fee is appropriate but determined that Petitioner's 15% expenses is not appropriate within the auspices of a NNN lease. Using 32,000 square feet, the mid-point between Petitioner and Respondent's estimated square footage, and a 10% capitalization rate, the subject's indicated value by the income approach is \$918,010.00.

6. The Board concluded that the 2003 actual value of the subject property should be reduced to \$918,010.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$918,010.00.

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 13th day of October 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

OCT 13 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

