

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ABC TRUST</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION</p>	<p>Docket Nos.: 43176 & 43871</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 10, 2006, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by Barry Goldstein, Esq. Respondent was represented by Max Taylor, Esq. Petitioner is protesting the 2003 and 2004 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

5140 Colorado Boulevard, Denver, Colorado
Denver County Schedule Number: 1183-00-028

The subject property consists of a 54,374 square foot single-tenant warehouse built in 1965 on a 134,135 square foot site.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value:

Market:	\$1,305,000.00
Income:	\$1,355,800.00

2. For the market approach, Petitioner presented six comparable sales ranging in sales price from \$725,000.00 to \$2,000,000.00 and in size from 30,000 to 57,823 square feet. After

adjustments for land-to-building ratio, location and condition, the prices ranged from \$601,759.84 to \$1,618,380.00. Petitioner's market approach did not provide a reliable indication of value due to the following:

- Sale 1: Not similar to the subject in location. The value of the business (unknown) was included in the sales price. No adjustment was applied to reflect substantial deferred maintenance.
- Sale 2: Transaction included seller financing. Excessive adjustment applied for condition.
- Sale 3: Transaction was a 1031 exchange and included seller financing. Excessive adjustment applied for condition.
- Sale 4: Transaction was not arm's-length and included seller financing. Excessive adjustment applied for condition.
- Sale 5: Excessive adjustment applied for condition.
- Sale 6: Transaction was a 1031 exchange. Excessive adjustment applied for condition.

3. In the income approach, Petitioner utilized an absolute net rental rate of \$2.80 per square foot. Petitioner's rental rate was based on the assumption that comparable buildings the same age as the subject would typically rent for \$4.50 per square foot and that the subject's functional and external obsolescence necessitated a negative 38% adjustment. Petitioner applied a vacancy rate of 10%; operating expenses at 6% (3% for management and 3% for reserves) and an overall capitalization rate of 9.5% to conclude to an indicated value of \$1,355,800.00 for the subject property. Petitioner's 38% adjustment for functional and external obsolescence was not substantiated and was determined to be excessive.

4. Petitioner is requesting a 2003 and 2004 actual value of \$1,350,000.00 for the subject property.

5. Respondent presented the following indicators of value:

Market:	\$2,049,900.00
Cost:	\$1,544,700.00
Income:	\$2,116,500.00

6. Respondent's market approach was based on four comparable sales ranging in sales price from \$895,000.00 to \$2,700,000.00 and in size from 25,261 to 72,981 square feet. After adjustments for building size, year of construction, wall height, and land-to-building ratio, the sales ranged from \$1,849,400.00 to \$2,152,700.00. Respondent concluded to an indicated value of \$2,049,900.00 for the subject property. Respondent's adjustments for ceiling height were found to be too conservative.

7. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,544,700.00. Due to the age of the subject property, the cost approach does not provide a reliable indication of value.

8. In the income approach, Respondent utilized a modified gross rental rate of \$5.31 per square foot, which reflects the mean rental rate, after adjustments, of four comparable properties. Respondent applied a 9% vacancy rate, 13% for operating expenses (5% for management, 5% for exterior maintenance and 3% for hazard insurance), and an overall capitalization rate of 10.8% to conclude an to an indicated value of \$2,116,500.00. Respondent's income approach did not provide a reliable indication of value, as the comparable rental data is not specific enough to make meaningful comparisons or to substantiate adjustments.

9. Respondent assigned an actual value of \$1,757,900.00 to the subject property for tax years 2003 and 2004.

10. The indicated value of the subject property is \$1,573,700.00 based on a recalculation of Petitioner's income approach utilizing a net rental rate of \$3.25 per square foot, vacancy at 10%, operating expenses at 6% and a 9.5% capitalization rate.

11. The indicated value of the subject property is \$1,967,700.00 based on a recalculation of Respondent's market approach with the following changes for ceiling height adjustments:

Sale 1	-6%
Sale 2	-3%
Sale 3	-6%
Sale 4	-9%

12. Placing equal weight on the values indicated in the recalculated market approach and the recalculated income approach results in an indicated value of \$1,770,700.00 – greater than the assigned value of the subject property for tax years 2003 and 2004.

CONCLUSIONS OF LAW:

Sufficient probative evidence and testimony was presented to prove that the tax year 2003 and 2004 valuation of the subject property was correct.

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 3rd day of June 2006.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

JUN 02 2006

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

