

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WESTWOOD DEVELOPMENT COMPANY LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 44653</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 15, 2006, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2003.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**15200 West 64th Avenue, Arvada, Colorado
Jefferson County Schedule No. 442010**

The subject property consists of a King Soopers supermarket built in 2002 on a 3.75-acre site. The land is owned by Westwood Development Company. The improvements are owned by Dillon Companies, the parent company of King Soopers.

FINDINGS OF FACT:

1. The subject property is encumbered by a long-term, under-market rent lease. The lease terms are confidential and sealed.

2. Petitioner presented the following indicators of value:

Market:	\$1,236,184.00
Income:	\$ 668,652.00

3. In the market approach, Petitioner relied on one comparable sale with a sales price of \$3,925,000.00 (\$70.17 per square foot) based on a building size of 55,935 square feet. After adjustments for location, age, and economic characteristics, the indicated price was \$981,100.00 or \$17.54 per square foot. Petitioner concluded to an indicated value of \$1,236,184.00 for the subject property based on the market approach.

4. Petitioner utilized market rent and market derived expenses to achieve a full market value for the subject property. Petitioner then subtracted a leasehold adjustment to arrive at a final indicated value of \$688,652.00 based on the income approach. Details of Petitioner's income approach are confidential and sealed.

5. Petitioner is requesting a 2003 actual value of \$675,000.00 for the subject property.

6. Respondent presented the following indicators of value:

Market:	\$4,613,500.00
Cost:	\$5,608,600.00
Income:	\$4,395,000.00

7. Respondent presented six supermarket and big box sales ranging in price from \$52.37 to \$90.00 per square foot and three supermarket sales ranging in price from \$59.61 to \$70.71 per square foot. Respondent reconciled to an indicated value of \$4,613,500.00 for the subject property (\$65.00 per square foot) based on a gross building area of 70,976 square feet.

8. In the cost approach, Respondent concluded to an indicated land value of \$4.00 per square foot based on the sale of the subject site and 69 commercial sales within Jefferson County with a median price of \$6.39 per square foot. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property improvements of \$4,955,975.00. Respondent arrived at a total value of \$5,608,600.00 based on the cost approach.

9. In the income approach, Respondent utilized a grocery area rental rate of \$8.00 per square foot, a 5% vacancy rate, and owner expenses of \$1.20 per square foot to conclude to a net operating income for the grocery area of \$432,180.00. The value attributable to the mezzanine storage area was calculated on a rental rate of \$2.50 per square foot, a 5% vacancy loss, and owner expenses of \$.25 per square foot to conclude to a net operating income of \$7,327.00 for the mezzanine area. The combined net operating income of \$439,507.00 was capitalized at 10% to arrive at an indicated value of \$4,395,000.00 based on the income approach.

10. Respondent testified that five other King Soopers stores realized an average of \$572.00 per square foot in 1999 retail sales transactions.

11. Respondent assigned an actual value of \$4,485,600.00 to the subject property for tax year 2003.

12. The income approach provides the best indication of value for the subject property. The Board calculated a value for the subject property based on market derived income and expenses and then deducted a leasehold adjustment to reflect the subject's actual lease terms. The Board concluded to an indicated value of \$3,237,605.00 for the subject property. The Board's calculations are based on confidential data and are sealed.

CONCLUSIONS OF LAW:

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

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2003 actual value for the subject property of \$3,237,605.00.

The Jefferson 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.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 10th day of July 2006.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

JUL 10 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

