

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SAFEWAY STORES 46, INC,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 44758</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 30, 2006, Karen E. Hart and Lyle D. Hansen presiding. Petitioner was represented by Clifton Hypsher, Esq. Respondent was represented by Robert Hill, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1329 S. Townsend Avenue, Montrose, CO
Montrose County Schedule No. R0650918**

The subject property consists of a one-story freestanding concrete block supermarket with 51,160 square feet of gross building area and a 2,376 square foot canopy. The building is situated on a B-2 zoned site containing a total of 192,448 square feet.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value:

Market:	\$1,905,000.00
Cost:	\$2,781,000.00
Income:	\$3,078,000.00

2. For the market approach, Petitioner presented five comparable sales ranging in sales price from \$650,000.00 to \$1,200,000.00 and in size from 19,100 to 50,414 square feet. After adjustments were made, the sales ranged from \$959,400.00 to \$1,668,000.00 or \$25.96 to \$51.61 per square foot. Petitioner concluded to an indicated value for the subject property of \$37.23 per square foot or \$1,905,000.00 based on the market approach.

3. Petitioner also presented multiple sales in the form of CoStar Comps Reports (reference Petitioner’s Exhibit B). However, these sales were not deemed substantive, as they were not independently confirmed, and were not similar to the subject in location or in use both before and after the sale.

4. Based on the cost approach, Petitioner concluded to an indicated value of \$2,781,000.00. Petitioner placed little weight on the value indicated by the cost approach due to the age of the subject property.

5. Petitioner’s income approach utilized triple-net rents of \$6.00 per square foot, a vacancy factor of 5%, an expense ratio of 5% and a capitalization rate of 9.0%, resulting in a value indication of \$3,078,000.00.

6. Petitioner is requesting a reduction in value to \$2,500,000.00 for tax year 2005.

7. Respondent presented the following indicators of value:

Cost:	\$3,600,000.00
Income:	\$3,460,000.00

8. Respondent presented four comparable vacant land sales ranging in adjusted sales prices from \$7.29 to \$7.85 per square foot and in size from approximately 73,573 to 658,192 square feet. Respondent concluded to an indicated value of \$7.46 per square foot for a total land value of \$1,436,000.00. Respondent used a state-approved cost estimating service to derive a depreciated improvement value of \$2,161,595.00. Respondent concluded to a total value of \$3,600,000.00 based on the cost approach.

9. Respondent’s income approach was based on triple-net rents of \$6.00 per square foot, a vacancy factor of 5%, and an expense ratio of 5%. The Summer 2004 edition of the Integra Realty Resources Real Estate Investment Survey for the Rocky Mountain Region indicated capitalization

rates for “big box” stores ranging from 7.5% to 10.8%. Respondent selected a capitalization rate of 8.0%. Respondent concluded to an indicated value of \$3,460,000.00 based on the income approach.

10. Respondent assigned an actual value of \$3,581,760.00 to the subject property for tax year 2005.

11. Petitioner’s market approach did not present a reliable indication of value, as such sizeable adjustments indicate that the comparable sales are substantially inferior to the subject property. In addition, the large variance in values between Petitioner’s market and income approaches further substantiates elimination of Petitioner’s market approach.

12. Neither Petitioner’s nor Respondent’s cost approach provides a reliable indication of value due to the age of the subject property.

13. The income approaches presented by both parties provide the most reliable indication of value. Both income approaches were based on a net rental rate of \$6.00 per square foot, a vacancy factor of 5% and an expense ratio of 5%. Petitioner applied a 9% capitalization rate, whereas Respondent applied an 8% capitalization rate. The 8% capitalization rate was deemed more accurate based on the local data reported to CoStar Comps.

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2005 valuation of the subject property was incorrect.

2. The Board concluded that the 2005 actual value of the subject property should be reduced to \$3,460,000.00.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$3,460,000.00.

The Montrose 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 3rd day of May 2006.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Lyle D. Hansen
Lyle D. Hansen

This decision was put on the record

MAY 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

