BOARD OF ASSESSMENT APPEALS, **STATE OF COLORADO** 1313 Sherman Street, Room 315 Denver, Colorado 80203 ——————————————— Petitioner: **BENJAMIN S. & GAIL E. CATLIN ETAL,** v. Respondent: **DOUGLAS COUNTY BOARD OF EQUALIZATION.**	**Docket Nos.:** **45589 & 47014**
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on January 23, 2008, Lyle Hansen, Debra A. Baumbach, and James R. Meurer presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Michelle B. Whisler, Esq. Petitioner is protesting 2005 and 2006 actual values of the subject property.

Docket Nos. 45589 & 47014 were consolidated for this hearing.

PROPERTY DESCRIPTION:

Subject property is described as follows:

9800 Pyramid Ct. Englewood, CO
(Douglas County Schedule No. R00426510)

The property consists of a four story, multi-tenant office building located in the southeast (Meridian) submarket of the Denver metropolitan area. The building contains 121,237 square feet gross and 117,792 square feet net rentable and was constructed in 2000. The subject is masonry construction with a flat roof and insulated glass windows. HVAC is forced air and parking consists of both surface and underground spaces. Site size is approximately 6.30 acres with frontage along Lincoln Ave. and zoning is PD through Douglas County. Building occupancy was 100% in 2003 and 73% in 2004. Petitioner and Respondent are in agreement relative to the physical characteristics of the building and concur that the subject was in overall good condition as of the date of value.

Respondent assigned a value of $15,146,760 for tax years 2005 and 2006. Petitioner is requesting values of $8,500,000 for each tax year.

Petitioner presented the following indicators of value:

Cost:	N/A
Market	$10,601,280
Income:	$8,110,477

Based on the Income Approach, Petitioner concluded an indicated value of $8,500,000 for the subject property.

Petitioner presented a Market (Sales Comparison) Approach that included four comparable sales ranging in sales price from $3,800,000 to $40,000,000 and in size from 63,352 square feet to 419,090 square feet. After adjustments were made, the sales ranged from $74.98 to $107.95 on a per square foot basis. The major adjustments to the comparable sales consisted of location, age, market (economic) characteristics resulting from the 9/11 attack and the high-tech slowdown, physical characteristics, excess land, and building square footage. Petitioner reconciled the adjusted sales at $90.00 per square foot resulting in an indicated value of $10,601,280.

Petitioner also presented an Income Approach to derive a value of $8,110,477 for the subject property. A direct capitalization model was used and consisted of income estimated at $16.25 per square foot gross and annual parking income estimated at $75.00 per space per month or $18,000 per year. A vacancy and collection factor was estimated at 10% and expenses were estimated at $709,844 or $6.03 per rentable square foot exclusive of real estate taxes. The net operating income was capitalized at a 12.69% rate which included a 9.00% base rate plus a 3.69% load for taxes.

According to Petitioner, the estimates of income were based on a survey of recent leases signed in the southeast office market. The vacancy rate was derived from information provided by CoStar and Ross Research. The source of the expenses was not disclosed, and the overall rate was based on sales within the market and third-party reports.

Respondent presented the following indicators of value:

Cost:	$14,848,347
Market	$13,942,255
Income:	$13,611,322

Based on the Income Approach with secondary consideration to the Market Approach, Respondent concluded an indicated value of $13,700,000 for the subject property.

Respondent presented a Market Approach that included three comparable sales ranging in sales price from $8,250,000 to $29,500,000 and in size from 81,063 square feet to 164,584 square feet. The major adjustments to the comparables sales were for vacancy, building class, building square footage, quality/condition, and land to building ratio. Respondent reconciled the adjusted sales at $115.00 per square foot resulting in an indicated value of $13,942,255.

Respondent presented an Income Approach to derive a value of $13,611,322 for the subject property. A direct capitalization model was used to arrive at this value and consisted of income estimated at $21.00 per square foot gross applied to the rentable area. A vacancy and collection factor was estimated at 15% and expenses were estimated at $677,012 or $5.75 per rentable square foot exclusive of real estate taxes. The net operating income was capitalized at a 12.79% rate which included and 9.00% base rate plus a 3.79% load for taxes.

According to Respondent, the estimates of income were based on a rent survey of leases in the Meridian office market. The vacancy rate was derived from information provided by actual occupancy of the building during the study period and information available through CoStar. The source of the expenses was based on information provided by the owner of the building and the overall rate was based on sales within the market and third-party reports.

The significant differences between Petitioner's and Respondent's estimates of value were the comparables used in the Market Approach and the adjustments to those comparables, and the estimate of the appropriate market rent per square foot for the subject in the Income Approach.

During testimony, Petitioner argued that Respondent's adjustments to the comparables sales in the Market Approach were not reasonable and supportable. Petitioner further argued that the estimated rents for the building in the Income Approach did not accurately reflect market conditions during the base period. Specifically, Respondent's estimated rents reflected asking rates not actual rates and that no adjustments were made for concessions and tenant finish allowance. During testimony, Respondent indicated that they could not dispute Petitioner's rent survey found on page 31 of Petitioner's analysis.

Respondent argued that the comparables used in their Market Approach and the adjustments to these comparables were reasonable and that their estimate of rents and expenses were based primarily on lease and expense summaries provided by the owner of the building and should be indicative of market rents for the subject during the study period.

Given the physical and economic characteristics of the property, the Board concludes that the Income Approach provides the most realistic indication of market value for the subject. After further review of the income, expense, and rate estimates used in Petitioner's and Respondent's direct capitalization models, the Board determines that the variables used in Petitioner's model are more reflective of the market conditions during the study period. However, the Board agrees that some modification to Petitioner's estimate of market rent per square foot is warranted since this estimate is at the low end of the range indicated by the comparables and does not consider any expense reimbursements to the lessor. The board also determines that a line-item deduction for reserves and replacements is not appropriate. The Board concludes that a market rent of $17.50 per square foot on a gross basis is reasonable and supportable for the subject.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2005 and 2006 valuation of the subject property was incorrect.

The Board concludes to an actual value for the subject property for tax years 2005 and 2006 of $9,361,000.00.

ORDER:

Respondent is ordered to reduce the 2005 and 2006 actual value of the subject property to $9,361,000.00.

The Douglas County Assessor is directed to change his records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

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

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, Respondent may petition the Court of Appeals for judicial review of such questions.

Colo. Rev. Stat. § 39-10-114.5(2) (2007).

DATED and MAILED this 13th day of March 2008.

BOARD OF ASSESSMENT APPEALS

Lyle Hansen

Debra A. Baumbach

James R. Meurer

This decision was put on the record

MAR 1 3 2008

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Heather Heinlein

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS