

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PEPPER CATLIN I LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45603</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 6, 2008, Sondra W. Mercier, Lyle D. Hansen, and MaryKay Kelley presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Michelle B. Whisler, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

9780-85 Pyramid Court, Englewood, Colorado
Douglas County Schedule Nos. R0426518 (office building) & R0426500 (parking lot)

The property is a 122,068 square foot multi-tenant office building located in the Meridian Office Park. Built in 2001 on 8.70 acres, it has 118,206 net rentable square feet. Respondent assigned an actual value of \$15,146,760.00. Petitioner is requesting a value of \$8,700,000.00.

Petitioner presented the following indicators of value, giving most weight to the income approach and reconciling to a value of \$8,700,000.00:

Market:	\$10,756,746.00
Cost:	n/a
Income:	\$ 8,292,621.00

Petitioner presented a market approach that included four comparable sales ranging in sales price from \$3,800,000.00 to \$40,000,000.00 or \$59.98 to \$154.21 per square foot of building area and in size from 63,352 to 419,090 square feet. After adjustments were made, the sales ranged from \$74.98 to \$109.49 per square foot. Petitioner reconciled the adjusted sales at \$91.00 per net square foot for an indicated value of \$10,756,746.00.

Petitioner's income approach was based on revenue of \$16.25 per square foot of net rentable area on a gross bases, annual parking income of \$36,900.00 based on \$75 per space for 41 spaces, and storage income of \$5,552.00. A vacancy allowance of 10% and management fee of 5% were estimated. Office expenses were estimated at \$5.00 per net rentable area, 5% for parking, and 2% for reserves and replacements. The net operating income of \$1,052,174.00 was capitalized at a 12.69%.

Per Petitioner, the income estimate of \$16.25 per square foot was based on a survey of seven gross leases ranging from \$14.00 to \$19.00 per square foot with reconciliation at \$16.25 per square foot. The vacancy rate of 10% was derived from CoStar (17.7% for class A and B office buildings midyear in 2004 and 18.6% for class A and B Meridian submarket multi-tenant office buildings midyear in 2004) and Ross Research (25.88% in the southeast suburban sector of the midyear 2004 office market report) with reconciliation at 10% due to the economic conditions in the 2004 Denver office market and high vacancy rate in the southeast suburban area. The base capitalization rate of 9% was based on eleven sales' rates from 8.38% to 12.24% and supported by Integra Realty Resources survey ranging from 8% to 12%. 2.57% was added for property taxes for an applied capitalization rate of 12.69%.

Respondent presented the following indicators of value, weighing both income and market approaches and reconciling to a value of \$14,000,000.00:

Market:	\$14,037,820.00
Cost:	\$19,088,512.00
Income:	\$14,471,449.00

Respondent presented a market approach that included three comparable sales ranging in sales price from \$8,250,000.00 to \$29,500,000.00 or \$101.77 to \$179.24 per square foot of gross area and in size from 81,063 to 164,584 gross square feet. After adjustments were made, the sales ranged from \$101.77 to \$179.24 per gross square foot. Respondent reconciled the adjusted sales at \$115.00 per gross square foot for an indicated value of \$14,037,820.00.

Respondent presented a cost approach based on Marshall Valuation Services cost estimates and a site analysis. The Board concludes that the cost approach does not provide a good indication of value for the subject property, and therefore did not give it weight in the final value conclusion.

Respondent's income approach was based on revenue of \$21.00 per square foot of net rentable area on a gross basis; vacancy and collection loss of 15%; parking, storage, and miscellaneous income; and expenses of 28% for a net operating income of \$1,850,898 capitalized at 12.79% (using a 9% base and 2.79% added for taxes).

Per Respondent, the income estimate of \$21.00 per square foot was based on executed leases of three buildings ranging from \$15.00 net to \$23.00 gross per square foot and seventeen BOMA-reported asking rents ranging from \$22.45 to \$22.89 per square foot. The vacancy rate of 15% was based on the subject's 100% occupancy during 2003 and 2004, market sales, and a CoStar Property Professional survey reporting vacancy rates of 11.8% (Meridian Office Park) and 8.3% (Highlands Ranch) during the base period. Expenses of 28% were based on actual data (\$5.74 per square foot for 2003 and \$6.78 per square foot for 2004) and BOMA survey data (\$5.18 to \$5.82 per square foot) with 28% applied. The base capitalization rate of 9% was derived from rates of two market sales (8.68% and 8.20%) and Integra Office Suburban Denver Cap Rate Survey ranging from 9% to 10.50%. A tax rate of 3.79% was added.

The Board concludes that the income approach is the best indicator of value and that Petitioner's figures are more reflective of the market. Petitioner's rental rate was compiled from a survey of actual rents, whereas Respondent's rate was derived from a survey that included asking rents and did not include concessions and tenant improvement allowances. Some modification of Petitioner's estimate of market rent 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. A market rent of \$17.50 per square foot on a gross basis is reasonable and supportable. Both parties' data supports Petitioner's 10% vacancy rate.

A reconstructed income approach is as follows:

Income	118,206 sf @ \$17.50	\$ 2,068,605
Parking	41 spaces @ 75.00 annualized	\$ 36,900
Storage		<u>\$ 5,552</u>
		\$ 2,111,057
Vacancy	10%	<u>\$ (211,106)</u>
Effective Gross Income		\$ 1,899,951
Management Fee	5%	<u>\$ (94,997)</u>
Total		\$ 1,804,954
Expenses		
Office expense @ \$5.00 per square foot		\$ (591,030)
Parking 5% of \$36,900		<u>\$ (1,845)</u>
Total Expenses		\$ (592,875)
Net Operating Income		\$ 1,212,079
Overall Rate		<u>12.69%</u>
Indicated Value		\$ 9,551,450
Rounded		\$ 9,551,000

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

The Board concludes to an actual value for tax year 2005 of \$9,551,000.00.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$9,551,000.00.

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 of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions 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 within thirty days of such decision 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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 13th day of March 2008.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Lyle D. Hansen

Lyle D. Hansen

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

MAR 13 2008

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

Heather Heinlein

Heather Heinlein

