

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SOPHICOLL, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45804</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 24, 2007, Karen E. Hart and Diane M. DeVries presiding. Petitioner was represented by Jack F. Fox. Respondent was represented by Charles T. Solomon, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2949 West Alameda Avenue, Denver, Colorado
(Denver County Schedule No. 05085-23-039-000)**

The subject property consists of a 3,303 square foot building constructed in 1973 on a 9,889 square foot site located on the corner of Federal Boulevard and Alameda Avenue. The property has limited access from Alameda Avenue and no access from Federal Boulevard. The subject improvement is a two-story building with 551 square feet of retail and 1,740 square feet of office on the first floor, and 1,012 square feet of office on the second floor. The zoning for the subject property is B-4 General Business District. The use of the subject property was changed from warehouse/service station to office/retail in 2005.

Respondent assigned an actual value of \$282,000.00 to the subject property for tax year 2005 but is recommending a reduction in value to \$275,000.00. Petitioner is requesting a 2005 actual value ranging from \$85,000.00 to \$90,000.00.

Petitioner presented a letter from the City and County of Denver dated May 5, 1997, which indicated that there has been a petroleum release at the referenced site and that an underground storage tank may still be present. The Colorado Department of Labor and Employment Oil and Public Safety records indicate that the subject site is a confirmed contamination site and its status remains open/active. Petitioner did not present a plan of action or cost to cure, as it is the State's responsibility to initiate clean up since the Petitioner is an innocent landowner. Both parties agree that contamination is present at the subject site.

Petitioner utilized an average of the 2003 and 2004 actual income and expenses, a 10% vacancy rate and a 14% capitalization rate to conclude to an estimated value of \$86,907.00. The base period for tax year 2005 ended on June 30, 2004 and Petitioner's use of the full year 2004 data is improper, as no data after June 30, 2004 can be considered.

Respondent presented the following indicators of value:

Market:	\$275,000.00
Cost:	\$308,300.00
Income:	\$231,000.00

In the market approach, Respondent utilized four comparable sales ranging in sales price from \$190,000.00 to \$325,000.00. After adjustments were made, the sales ranged from \$257,300.00 to \$389,600.00.

No weight was given to the cost approach due to the age and various uses of the subject property.

In the income approach, Respondent used four comparable rental properties with rental rates ranging from \$9.28 to \$13.33 per square foot. After adjustments, the rental rates ranged from \$8.35 to \$13.15 per square foot. Respondent valued the first floor retail area at \$14.00 per square foot, the first floor office area at \$10.00 per square foot, and the second floor office area at \$9.00 per square foot to arrive at a potential gross income of \$34,220.00. After applying a 10% vacancy rate, a 25% expense rate and a 10% capitalization rate, the indicated value of the subject property is \$231,000.00 based on the income approach.

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

Respondent did not dispute that the subject property is contaminated. However, Respondent's comparable sales and rental rates were derived from properties that were not affected by contamination.

Given that the subject property generates income and is a viable going concern, the income approach provides the best indication of value. Petitioner presented insufficient documentation to substantiate rental rates and the 14% capitalization rate. Respondent presented adequate documentation to substantiate market rental rates and a capitalization rate of 10%. However, Respondent's 10% capitalization rate does not include the risk associated with contamination. The

Respondent's 10% capitalization rate does not include the risk associated with contamination. The Board recalculated Respondent's income approach using an 11% capitalization rate to conclude to an actual value of \$210,000.00.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$210,000.00, with \$107,600.00 allocated to land and \$102,400.00 allocated to improvements.

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


APPEAL RIGHTS:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

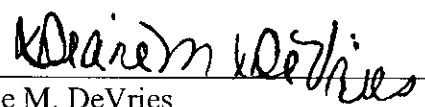
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 5th day of March 2007.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

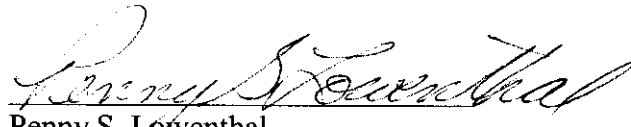


Diane M. DeVries

This decision was put on the record

MAR 01 2007

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



Penny S. Lowenthal

