

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WSA FRATERNAL LIFE,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 46461</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 19, 2007, Diane M. DeVries, MaryKay Kelley, and James R. Meurer presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Michael A. Koertje, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2003 and 2004.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1215 Spruce Street, Boulder, Colorado
(Boulder County Schedule No. R0009355)**

The property consists of a 23,947 square foot office building located in the Boulder Central Business District. The building contains 20,050 square feet above grade in three stories and 3,897 square feet in a partially finished basement. There is also an attached carport to the rear of the structure containing six parking spaces. The building is steel frame with a face brick exterior, the roof is flat rubber membrane, and HVAC is via a roof top unit and a central boiler. The basement is accessed via stairs and an elevator, and the building is wet sprinklered for fire protection. According to Petitioner's documentation, the improvements were constructed in two phases with the most recent addition/upgrade added in 1980. As of the dates of valuation, January 1, 2003 and January 1, 2004, the building was vacant, in shell condition with minimal tenant finish, and the asbestos had not been removed from the structure.

Petitioner presented the following indicators of value:

Cost:	N/A
Market:	\$1,882,160
Income:	\$1,592,912

Based primarily on the analysis contained in the income approach with secondary weight to the market approach, Petitioner presented an indicated value of \$1,600,000.00 for the subject property.

Petitioner presented a market approach that included three comparable sales ranging in sales price from \$1,425,000.00 to \$1,750,000.00 and in size from 5,936 square feet to 11,520 square feet. After adjustments were made, the sales ranged from \$75.41 to \$141.64 on a per square foot basis. The major adjustments to the comparable sales consisted of market characteristics (economic characteristics resulting from 9/11 and the high-tech slowdown), physical characteristics (lack of tenant finish and asbestos removal), and site size resulting in an indicated value of \$80.00 per square foot or \$1,882,160.00.

Petitioner also presented an income approach to derive a value of \$1,592,912.00 for the subject property. A direct capitalization model was used and consisted of income for the above grade square footage estimated at \$15.00 per square foot for 19,995 square feet, income for the basement area estimated at \$8.00 per square foot for 3,532 square feet, and annual parking income estimated at \$4,500 per year. In addition, a \$7.00 per square foot allowance was allocated for common area maintenance. A vacancy and collection factor was estimated at 10%. Expenses were estimated at 5% for management fees; 5% for operating, maintenance, and reserves; and \$103,689.00 for common area maintenance less property tax. The net operating income was capitalized at an 11.85% rate which included an 8.5% base rate, a 2.35% load for taxes, and a 1% allocation for asbestos removal. According to Petitioner, the 1% asbestos removal percentage equated to a cost of approximately \$233,000. In addition, a \$40.00 per square foot cost was deducted from the capitalized value of the property for tenant finish allowance.

According to Petitioner, the estimates of income were based on a survey of recent leases signed in the Boulder office market. The vacancy rate was derived from information provided by CoStar and Ross Research. The source of the expenses and tenant finish allowance was not disclosed, and the overall rate was based on sales within the market and third-party reports. The source of the 1% load factor for asbestos abatement included in the overall rate was not disclosed.

Petitioner is requesting a 2003 and 2004 actual value of \$1,600,000.00 for the subject property.

Respondent presented the following indicators of value:

Cost:	N/A
Market:	\$3,208,000
Income:	\$3,173,000

Based on the market approach with secondary consideration to the income approach, Respondent concluded to an indicated value of \$3,167,000.00 for the subject property.

Respondent presented a market approach that included four comparable sales ranging in sales price from \$1,165,000.00 to \$5,600,000.00 and in size from 6,750 square feet to 34,904 square feet. After adjustments were made (inclusive of tenant finish allowance and exclusive of the cost of asbestos removal) the sales ranged from \$143.63 to \$279.19 on a per square foot basis. The major adjustments to the comparables sales were for finish, quality, and parking resulting in a reconciled value of \$160.00 per square foot or \$3,208,000.00.

Respondent also presented an income approach to derive a value of \$3,173,000.00 for the subject property inclusive of tenant finish allowance and exclusive of the cost of asbestos removal. A direct capitalization model was used to arrive at this value and consisted of income for the above grade square footage estimated at \$20.00 per square foot for 20,050 square feet, income for the finished basement area estimated at \$10.00 per square foot for 2,515 square feet, and annual parking income estimated at \$6,480.00 per year based on \$90.00 per space per month. A vacancy and collection factor was estimated at 11% and expenses were estimated at 10% of effective gross income. The net operating income was capitalized at a 9.00% rate. In addition, a \$30.00 per square foot cost was deducted from the capitalized value of the property for tenant finish allowance.

According to Respondent, the estimates of income were based on a confidential rent survey of leases in the Boulder downtown office market. The vacancy rate was derived from information provided by Ross Research. The source of the expenses and tenant finish allowance was not disclosed, and the overall rate was based on sales within the market and third-party investor reports.

Respondent reached an indicated value of \$3,200,000.00 exclusive of the cost of asbestos removal. Respondent deducted \$33,239.00 from this indicated value for asbestos removal, based on an invoice for actual costs of asbestos removal from the subject by MDR Corporation of Northglenn, Colorado, concluding to a final indicated value of \$3,167,000.00

Respondent assigned an actual value of \$4,367,200.00 to the subject property for tax year 2003 and 2004; however, is recommending a reduction to \$3,167,000.00 for the referenced years.

The Board agrees with Petitioner and Respondent that the subject is unique in terms of condition and location. Given the 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 the two direct capitalization models, the Board determines that a more supportable indication of value draws from both Petitioner's and Respondent's models.

The Board concludes that Petitioner's estimate of income is more supportable since it is based on a rent survey within the market. However the Board agrees with Respondent's reported square footage and estimate of parking income. The Board agrees that Respondent's tenant finish cost and cost of asbestos abatement are more realistic. The Board concludes to an overall capitalization rate of 9.3%, from market-derived capitalization rates presented by Respondent. After recalculation, the Board concludes to an indicated value of \$2,650,000.00 for the subject property.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2003 and 2004 valuation of the subject property was incorrect.

The Board concludes that the 2003 and 2004 actual value of the subject property should be reduced to \$2,650,000.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2003 and 2004 actual value for the subject property of \$2,650,000.00.

The Boulder 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 17th day of November 2007.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

MaryKay Kehey

MaryKay Kehey

James R. Meurer

James R. Meurer

This decision was put on the record

NOV 16 2007

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

Heather Heinlein

Heather Heinlein

