

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 46017 and
47053**

Petitioner:

SUN LIFE ASSURANCE COMPANY OF CANADA

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 13, 2007, Lyle D. Hansen and Debra A. Baumbach presiding. Petitioner was represented by Richard OLona, Esq. Respondent was represented by Charles Solomon, Esq. Petitioner protested the 2005 and 2006 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**11333 E. 55th Avenue, Denver, Colorado
Denver County Schedule No. 01141-01-012**

The subject property is a multi-tenant industrial warehouse located in "Montbello Industrial Park." The property encompasses approximately 311,543 square feet of site area and contains a reported 114,046 square feet of gross building area. The facility was constructed in 1984 and is considered to be in overall average condition. Petitioner requested an actual value of \$3,000,000.00. Respondent assigned an actual value of \$4,053,800.00 for tax years 2005 and 2006.

The parties presented the following indicators of value:

	Petitioner	Respondent
Market Approach	\$3,238,720.00	\$4,447,800.00
Cost Approach	N/A	\$5,812,000.00
Income Approach	\$2,922,309.00	\$4,146,000.00

MARKET APPROACH

Petitioner presented three comparable sales ranging in sales price from \$1,950,000.00 to \$4,100,000.00 and in size from 53,020 to 143,610 square feet. After adjustments, the sales ranged from \$28.55 to \$35.68 per square foot. Petitioner correlated to a value of \$29.00 per square foot. The sales used by Petitioner are located outside the market area and reflect different trends. The Board determined Petitioner's sales were not suitable for comparison.

Respondent utilized four comparable sales ranging in sales price from \$2,950,000.00 to \$7,822,196.00 and in size from 86,036 to 193,378 square feet. After adjustments, the sales ranged from \$35.34 to \$42.88 per square foot. The Board was convinced that Respondent's sales are considered more suitable for comparison in that they are all located in the subject's market area and reflect similar trends. However, sale one was involved as part of a bulk portfolio sale and was purchased on a leased fee basis, not as a fee simple. Sale three and four were both purchased by the tenant and not offered on the open market. Sale two sold within the extended base period. The Board believed this sale is the best indication of value by the market approach.

COST APPROACH

Respondent's cost approach utilized a state approved cost estimating service. Improvement value was determined by deducting depreciation from replacement cost new. Respondent concluded to a value of \$5,812,000.00 for the cost approach.

The Board did not consider the cost approach to be the most reliable approach to value and placed little weight on it mainly due to estimating depreciation.

INCOME APPROACH

Petitioner's income approach was based on the net rentable area of 111,680 square feet. The indicated unadjusted lease rates ranged from \$2.50 to \$3.50 per square foot on a triple net basis for industrial leases. Petitioner used \$3.25 per square foot and added \$1.25 for common area maintenance ("CAM") reimbursement income, 10% for vacancy allowance, a 3% management fee, \$84,600.00 for CAM less property tax, and 5% for operating, maintenance and reserves to arrive at an annual net income of \$332,198.00. The annual net income was capitalized at a rate of 11.37% to conclude to an indicated value of \$2,922,309.00.

Respondent's income approach was based on the gross area of 114,046 square feet. The indicated adjusted lease rates ranged from \$3.82 to \$5.10 per square foot based on a triple net basis. Respondent used 9% for vacancy and collection loss, 13% for expenses before real property taxes to arrive at an annual net income of \$406,306.00. Respondent applied a 9.80% capitalization rate to conclude to an indicated value of \$4,146,000.00.

The Board found the income approach to provide a more reliable indication of value for the subject property.

CONCLUSION

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2005 and 2006. The Board believed the net rentable area is what potential investors are going to consider in their analysis. Additionally, Respondent utilized a capitalization rate much lower than what was reported in the Integra report with no data supporting that rate. The Board was convinced the lease rate on a triple net basis should be \$4.00 per square foot.

The Board recalculated the income approach using a lease rate of \$4.00 per square foot on a triple net basis, a 10% vacancy allowance, 10% for expenses, and a 10.87% capitalization rate rounding to a value of \$3,329,000.00

The Board concluded that the 2005 and 2006 actual value of the subject property should be reduced to \$3,329,000.00.

ORDER:

Respondent is ordered to reduce the 2005 and 2006 actual values of the subject property to \$3,329,000.00.

The Denver 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 24th day of May 2007.

BOARD OF ASSESSMENT APPEALS

Lyle D. Hansen

Lyle D. Hansen

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

MAY 23 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

