BOARD OF ASSESSMENT APPEALS, **STATE OF COLORADO** 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **PACIFICA AIRWAYS II, LLC,** v. Respondent: **ADAMS COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 50774**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 5, 2009, James R. Meurer, Lyle D. Hansen, and Louesa Maricle presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

2460 Airport Boulevard, Aurora, Colorado
Adams County Schedule No. R0152720

The subject property is a one-story storage warehouse building with a rentable area of 161,900 square feet. The building was completed in 2007 and is situated on a 7.94-acre site in the Airways Business Center. The construction is concrete slab on grade, steel frame with precast concrete exterior panels and flat roof. The building has 30-foot ceiling height, 50 dock doors, and 4 drive-in doors. The site is landscaped and has lighted asphalt paved parking. The building design would accommodate approximately four tenants. On the assessment date of January 1, 2008, the property was 100% vacant and was in unfinished, shell condition.

Respondent assigned a value of $8,135,275.00 for tax year 2008. Petitioner is requesting a value of $4,200,000.00.

Petitioner presented the following indicators of value:

Cost:	Not used
Market:	$4,522,672.00
Income:	$4,127,045.00

Petitioner presented an indicated value of $4,200,000.00 for the subject property, based primarily on the income approach with secondary emphasis given to the market approach. Petitioner's witness, Mr. Todd J. Stevens, did not present the cost approach to value.

Petitioner's witness presented a market (sales comparison) approach to value including four comparable sales ranging in price from $4,100,000.00 to $11,200,000.00 and in size from 115,375 to 210,600 square feet. On a per square foot basis, the sale prices ranged from $34.40 to $53.18. Adjustments were made to the sales for location, age of the improvements, economic characteristics (described as current economic conditions and vacancy), physical characteristics, and site area. Petitioner's witness testified that most of the percentage adjustments used are based on his judgment rather than support from quantitative analysis. After adjustments, the indicated prices ranged from $22.36 to $30.85 per square foot. The value conclusion using the market approach was $28.00 per square foot or $4,522,672.00.

Petitioner presented an income approach with an indication of value of $4,127,045.00 for the subject. Direct capitalization methodology was used. Data for six market rent comparables were presented as support. The leases presented indicated a range of triple net lease rental rates of $3.25 to $4.25 per square foot. Petitioner's witness concluded to a triple net rental rate of $3.75 per rentable square foot. Additional revenue of $2.00 per square foot was estimated for the triple net lease expense reimbursement, identified on the pro forma as common area maintenance (CAM) reimbursement. Details of the CAM reimbursement items were not identified. If the net CAM revenue estimate used is factored in, the Petitioner's total effective rental income would be equivalent to $4.77 per square foot.

Petitioner's witness used a 25% vacancy and collection loss factor. Operating expenses included a 3% management fee, $157,854.00 for CAM, excluding property tax, and 5% for operating, maintenance, and reserves. A breakdown of the CAM, operating, and maintenance expenses was not identified. The net operating income was capitalized at a rate of 11.76%, which included a base rate of 8.25% plus 3.51% for the effective property tax rate.

Petitioner's witness based the estimate of rent on a survey of metropolitan area leases during the base period. The vacancy rate used was based on the rates from the Ross Research and CoStar market reports. The CAM estimate is based on information derived from the lease comparables. The sources of the other expense estimates used were not provided. The capitalization rate used was based on market sales and the Summer 2006 Smith/Burbach Real Estate Investment Survey.

Respondent presented the following indicators of value:

Cost:	$9,781,000.00
Market:	$8,257,000.00
Income:	$7,533,000.00

Respondent's witness, Mr. Gregory J. Broderick, a Licensed Appraiser with the Adams County Assessor's office, presented an indicated value of $8,300,000.00 for the subject giving consideration to all three approaches to value.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $9,781,396.00.

Respondent presented a market approach with four comparable sales that occurred during the base period and one that took place in 2002 during the extended five year base period. The sales ranged in price from $4,558,650.00 to $8,000,000.00 and in size from 78,000 to 181,200 square feet. On a per square foot basis, the sales ranged from $44.15 to $73.43. Respondent's witness considered qualitative rather than quantitative adjustments for each sale and did not conclude to adjusted sale prices for the comparables. Respondent's witness concluded that three of the comparable sales are inferior to the subject and two are superior. Using this approach, Respondent's witness concluded to a market value of $51.00 per rentable square foot. Respondent concluded to a rounded value by the market approach of $8,257,000.00.

An income approach was presented by Respondent with an indication of value of $7,533,000.00. Direct capitalization methodology was used. The market rent was estimated at $4.37 per rentable square foot on a triple net basis. Respondent used a 10% vacancy and collection loss and a 5% estimate for expenses. The expense estimate includes all operating expenses for the property except property tax. Because the tenants are responsible for paying all of the real estate tax under a triple net lease, Respondent's witness excluded the property tax expense from his appraisal analysis. The net operating income was capitalized at a rate of 8.0% resulting in an indication of value by this approach of $7,553,000.00, rounded.

According to Respondent's witness, the estimates of income were based on eight leases in the submarket and the larger metropolitan area market extracted from a confidential rent survey conducted by the Adams County Assessor's office. To preserve confidentiality, specific lease information such as property locations, age of the improvements, lease dates, terms, and leased square footage were not disclosed. Respondent was unable to testify that all of the leases occurred during the base period; some may have occurred during the extended five-year base period. The asking rents for two sister buildings located in the same business park as the subject were also presented. The vacancy rate used was based on the CoStar market survey. The source used for the expense estimate is confidential information from the Assessor's office files. The overall capitalization rate was based on the Summer 2006 Smith/Burbach Real Estate Investment Survey.

Petitioner argued that use of the cost approach was not meaningful because the market did not support new construction during the base period. Petitioner questioned the validity of some of the sales used by Respondent. The parties disagreed about all major points relative to the income approach analysis.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2008 valuation of the subject property was incorrect.

The cost approach to value provides a reliable indication of value for new construction in an active, stabilized market. As of the assessment date, the subject market was not considered to be in equilibrium. In this case, the difficulty in accurately estimating external obsolescence results in a less reliable indication of value by this approach. It is useful as support for the other approaches to value. The Board concludes that because of the small number of comparable sales available during the base period, the income approach to value is the most reliable indication of market value for the subject property. Both parties presented market sales that occurred within the base period and also in the earlier extended five-year base period. It is the conclusion of the Board that both parties used predominantly qualitative rather than quantitative adjustments in comparing the sales to the subject. While this is valid methodology, qualitative adjustments result in analysis that is more subjective. For this reason, the Board has given less weight to the market approaches presented.

For the income approach, the Board understands the requirement for confidentiality conferred on the rent comparables presented by Respondent that were obtained from the Assessor's office surveys. However, the Board concludes that less reliance can be given to those leases because Respondent could not confirm that all occurred during the base period and the information provided is so limited that the Board cannot determine that the leases presented are reasonably comparable.

After further review of the income, expense, and capitalization rate data presented by Petitioner and Respondent, the Board concludes that the 25% vacancy and collection loss used by Petitioner is high when the resulting net operating income is to be capitalized in perpetuity. Instead the Board concludes it is appropriate to make a one-time deduction for loss in revenue during lease-up. The Board determines that a rental rate of $4.00 per square foot, a stabilized vacancy and collection loss rate of 12%, and an estimate of 4% of effective gross income for operating, management, and reserves are supportable. The Board disagrees with Respondent that the property tax expense should be excluded altogether from the analysis because there will be periodic vacancy and a corresponding loss in tax and CAM reimbursement revenue. Using Petitioner's overall CAM estimate and the Board's stabilized vacancy and collection loss estimate as a basis, the Board estimates a net CAM deduction equivalent to 6.8% of the effective gross income. Based on the sale comparables and data from third party market reports provided, the Board concludes that an 8.0% capitalization rate is reasonable.

The Board concludes that the 2008 actual value of the subject property should be reduced to $5,870,000.00.

ORDER:

Respondent is ordered to reduce the 2008 actual value of the subject property to $5,870,000.00.

The Adams County Assessor is directed to change his/her 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 Section 24-4-106(11), C.R.S. (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 Section 24-4-106(11), C.R.S. (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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 25th day of November 2009.

BOARD OF ASSESSMENT APPEALS

James R. Meurer

Lyle D. Hansen

Louesa Maricle

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

Heather Flannery

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

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