

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53404

Petitioner:

BP AIRWAYS LLC ET AL,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 22, 2010 Sondra W. Mercier and Lyle D. Hansen presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**2470 Airport Blvd., Aurora, Colorado
Adams County Schedule No. R0152721**

The subject property consists of a two-tenant storage warehouse property. The building was constructed in 2004 and contains a total of 332,075 square feet of net rentable area according to Petitioner's information. The building improvements consist of pre-cast panels and steel frame on a concrete slab. The building has a total of 120 dock-high doors and 4 drive-in doors. The building is situated on a 16.83-acre site.

Petitioner presented the following indicators of value:

Market: \$12,286,775.00
Cost: \$0.00 (not presented)
Income: \$11,570,533.00

Based on the market approach, Petitioner presented an indicated value of \$12,286,775.00 for the subject property.

Petitioner presented three comparable sales ranging in sales price from \$4,500,000.00 to \$9,782,500.00 or \$26.82 to \$43.00 per square foot and in size from 167,797 to 227,500 square feet. After adjustments were made, the sales ranged from \$33.79 to \$39.99 per square foot.

Petitioner presented no cost approach.

Petitioner presented an income approach to derive a value of \$11,570,533 for the subject property. Petitioner presented seven comparable industrial rentals with a triple-net rental rate range of \$3.17 to \$4.50 per square foot and concluded a rental rate of \$4.00 per square foot and a common area management (CAM) rate of \$2.00 per square foot. Petitioner deducted a vacancy allowance of 10%; a management fee of 3%; an operating, maintenance and reserve rate of 10%; and \$180,354 for CAM expenses without taxes, deriving an annual net income of \$1,385,114.00. Petitioner concluded a base capitalization rate of 8.25% and added an additional 3.72% for property taxes for a total capitalization of 11.97% to derive a value indication by the income approach.

Petitioner placed greater consideration upon the income approach to derive a value indication for the subject with a final value conclusion of \$11,600,000.00.

Petitioner is requesting a 2009 actual value of \$11,600,000.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$17,600,000.00
Cost:	\$14,700,000.00
Income:	\$15,300,000.00

Based on the market approach, Respondent presented an indicated value of \$17,600,000.00 for the subject property.

Respondent presented four comparable sales ranging in sales price from \$6,200,000.00 to \$16,190,000.00 or \$34.22 to \$54.15 per square foot and in size from 161,900 to 300,300 square feet. After adjustments were made, the sales ranged remained the same from \$34.22 to \$54.15.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$14,700,000.00. Respondent concluded a replacement cost new of \$13,775,501.00 and a deducted total accrued depreciation of \$551,020.00, resulting in a value of \$13,224,481.00. Respondent added a land value of \$1,429,793.00, to derive a value indication by the cost approach of \$14,654,274.00.

Respondent used the income approach to derive a value of \$15,300,000.00 for the subject property. Respondent presented a total of ten comparable warehouse rentals with a triple-net rental rate range of \$2.93 to \$6.30 per square foot and concluded a rental rate of \$4.15 per square foot on a net basis and added \$535,000.00 as additional income representing property taxes paid by the tenant to derive a potential gross income of \$1,912,480.00. Respondent deducted a vacancy rate of 8.22% and operating expenses representing owner-paid management at a rate of

2%, deriving a net operating income of \$1,720,169.07. Respondent applied a base capitalization rate of 7.75% plus an effective tax rate of 3.5% to the net operating income to derive the value indication by the income approach.

Respondent gave the cost approach, sales comparison approach and income approach similar weight to derive a value indication for the subject of \$15,700,000.00.

Respondent assigned an actual value of \$15,649,374.00 to the subject property for tax year 2009.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was incorrect.

The Board considered the income approach to be the most reliable indication of value for the subject property. The Board placed greater reliance on Petitioner's comparable rental rates, which included leases in the subject ranging from \$3.60 to \$4.05 per square foot. The rental comparables were quoted on a triple-net basis similar to the subject property. The Board concluded a triple-net rental rate of \$4.00 per square foot. The Board agreed with Respondent's conclusion of a vacancy rate of 8.22% as being more reflective of warehouse vacancy in the area. The Board concluded a management and reserve fee of 3% of effective gross income as appropriate. Petitioner's base capitalization rate was concluded at 8.25% and Respondent's base capitalization rate was concluded at 7.75%, before adding the effective tax rate. The Board concluded the capitalization rate at 8.0% excluding the effective tax rate. The Board concluded the overall capitalization rate at 8.0% based upon data provided by both Petitioner's and Respondent's appraisers who referenced the Summer 2008 Real Estate Investment Survey accomplished by Burbach & Associates, Inc. Both appraisers based their capitalization rate upon this study. Petitioner's appraiser concluded a base capitalization rate of 8.25% on that study. Respondent's appraiser indicated an overall capitalization rate from that Study of 7.0% to 9.0% with a mean of 7.83% and a median of 7.75% on nine properties surveyed. Respondent's appraiser stated in the "Capitalization Rate" section of his appraisal that net operating income is divided by a capitalization rate known as the overall rate. The Board concluded that "net operating income" includes a deduction for real estate taxes and also concluded that the stabilized capitalization rates displayed in the Burbach & Associates report also included real estate taxes in the net operating income of each property surveyed. The indicated value is adjusted to \$14,340,000.00, rounded.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$14,340,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$14,340,000.00.

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).

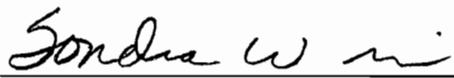
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 5 day of November 2010.

BOARD OF ASSESSMENT APPEALS

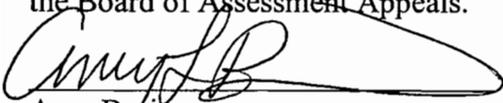


Sondra W. Mercier



Lyle D. Hansen

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



Amy Bruihs

