

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>PACIFICA AIRWAYS II LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 53444</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 6, 2010, Karen E. Hart and Sondra W. Mercier 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:

**2460 Airport Boulevard, Aurora, Colorado  
Adams County Schedule No. 01821-33-2-01-004**

The subject is a 161,900 square foot distribution warehouse on a 7.94 acre site. The structure was completed to shell condition in 2007 and was not occupied during the base period. The building was purchased by the current owner on January 31, 2008 for \$8,560,000.00, based on an agreed upon price prior to construction and as part of a multi-property purchase.

Petitioner is requesting an actual value of \$4,300,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$8,265,606.00 for the subject property for tax year 2009.

Petitioner presented the following indicators of value:

Cost:	Not Applied
Market:	\$4,587,602.00
Income:	\$4,271,590.00

Petitioner contends that the cost approach is not reliable in the valuation of the subject as sales prices do not support the cost of new construction.

Petitioner's witness, Mr. Todd J. Stevens of Stevens & Associates, Inc., presented three comparable sales ranging in sale price from \$4,500,000.00 to \$9,782,500.00 and in size from 167,797 to 227,500 square feet, indicating an unadjusted range in value of \$26.82 to \$43.00 per square foot. After adjustments were made, the sales ranged from \$26.01 to \$30.96 per square foot. Petitioner concluded to a value of \$28.34 per square foot or \$4,587,602.00 based on the market approach.

Petitioner presented an income approach to derive a value of \$4,271,590.00 for the subject property. Petitioner concluded to a rental rate of \$3.75 per square foot with reimbursable expenses of \$2.00 per square foot based on an analysis of seven leases negotiated during the base period. Petitioner deducted vacancy of 15%, management fee of 3%, common area maintenance expenses without property taxes of \$141,061.00 and operating, maintenance and reserves of 15%. Petitioner applied a capitalization rate of 8.25%, adding an additional 3.72% for property taxes for a total overall rate of 11.97%.

Petitioner contends that the sale of the subject was not relevant as it was part of a three property sale that was negotiated prior to completion of the subject, and that Respondent does not know the details of the agreement between the parties for the three building sale. Mr. Stevens testified that the subject was not exposed to the competitive market but was constructed on a build-to-suit basis. Mr. Stevens testified that costs for interior tenant finish would range between \$15.00 and \$30.00 per square foot.

Respondent presented the following indicators of value:

Cost:	\$9,700,000.00
Market:	\$8,600,000.00
Income:	\$7,800,000.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$9,700,000.00.

In applying the market approach, Respondent's witness, Mr. Gregory J. Broderick with the Adams County Assessor's Office, presented five comparable sales ranging in sale price from \$4,800,000.00 to \$26,900,000.00 and in size from 100,100 to 423,260 square feet, indicating a range in value prior to adjustment of \$34.22 to \$63.55 per square foot. Respondent found Comparable Sales 1 and 4 most comparable to the subject, indicating a range in value of \$47.57 to \$63.55 per square foot. Respondent indicated that the subject had sold for \$52.87 per square foot during the base period and concluded to a value of \$53.00 per square foot for a value of \$8,600,000.00, rounded.

Respondent used the income approach to derive a value of \$7,800,000.00 for the subject property. Respondent concluded to a rental rate of \$4.25 per square foot net of expenses for the subject based on internal ownership survey data and the *Frederick Ross Company Denver Industrial*

*Market Report* for mid-year 2008. Respondent relied on the *Frederick Ross* report to conclude to a vacancy of 8.22%. A total deduction of 4% was applied to reflect non-reimbursed owner's expenses and reserves. Respondent applied an overall capitalization rate of 7.75% based on the *Burbach & Associates – Real Estate Investment Survey – Summer 2008*, relying only on respondents with Denver locations.

Mr. Broderick contends that the sale of the subject was a market transaction of a build-to-suit property that met the ownership's requirements. Respondent contends that the best comparable for the subject is the actual sale of the subject, which was believed to be based on cost.

Respondent assigned an actual value of \$8,265,607.00 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 finds that the actual sale of the subject is not a reliable indicator of the value of the subject. The sale that occurred in January 2008 was part of a multi-property sale that was negotiated prior to the completion of the subject improvements. Neither party provided convincing evidence that the sale of the subject was not affected by the sale of the adjacent two buildings.

The Board places little weight on Petitioner's market and income approaches. Petitioner's sales are not comparable in quality or location to the subject. Petitioner's income approach includes large deductions for vacancy of 15%, management fees of 3%, and operating, maintenance and reserves of 15% that were not supported by market data.

The Board finds that all three of Respondent's approaches accurately reflect the value of the subject as a fully leased property operating at a stabilized level. All three approaches would require deductions to reflect that the property was new construction but never occupied at any time during the base period. Deductions are required for the cost of tenant finish, leasing commissions and rent loss during vacancy. The Board places the greatest reliance on Respondent's income approach, with a deduction of \$4.25 per square foot or \$688,075.00 for one year's rent loss, and \$2.00 per square foot or \$323,800.00 for one year's loss of expense reimbursement. Respondent's comparable sales indicate that properties similar to the subject have an average of 7% finished office space. That would indicate office finish of 11,300 square feet for the subject. Based on Mr. Stevens' testimony that the cost of office finish is \$15.00 to \$30.00 per square foot, the Board makes a further deduction of \$20.00 per square foot for 11,300 square feet of finished office space with an additional deduction of \$226,660.00. The value concluded by the Board is \$6,560,000.00, rounded.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$6,560,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$6,560,000.00.

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 7 day of January 2011.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Sondra W. Mercier*

Sondra W. Mercier

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

*Amy Bruins*

Amy Bruins

