BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **ST. PAUL PROPERTIES, INC.,** v. Respondent: **ARAPAHOE COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 62470**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 7, 2014, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Petitioner stipulated to the expert witness qualifications of Jeff Hamilton and to Respondent's Exhibit A.

Subject property is described as follows:

> **6061 South Willow Drive**
> **Greenwood Village, Colorado 80111**
> **Arapahoe County Schedule No. 2075-21-1-23-002**

The subject is a three story Class B office with a central atrium. The building was constructed in 1980 and remodeled in 1998. There are 135,658 net rentable square feet and the improvements are located on a 6.41 acre site.

Petitioner presented the following indicators of value:

Market:	$9,496,060
Cost:	Not applied
Income:	$7,689,565

Petitioner is requesting an actual value of $8,500,000 for the subject property for tax year 2013. Respondent assigned a value of $15,000,000 for the subject property for tax year 2013.

Petitioner's witness, Mr. Todd Stevens of Stevens and Associates Cost Reduction Specialists, Inc., began his testimony by stating the building, although almost completely occupied by a single tenant, was actually a multi-tenant structure. The tenant began leasing space in the building in the year 2000 and gradually expanded the leased area taking over vacant space until the building became essentially single tenant occupancy. Mr. Stevens noted the subject's atrium design as a feature of buildings constructed in the 80's. This design, with a floor to ceiling opening, allows for offices with both exterior and interior views. Mr. Stevens pointed out the largely vacant space represents a 27% "core factor". This factor, essentially a ratio between the actual size of the building and the area that can be leased to a tenant, is extremely high according to Mr. Stevens and results in high maintenance costs and lower rents than buildings not so burdened. Mr. Stevens also testified the building's parking ratio of 2.87 spaces per 1,000 square feet of building to be insufficient under current standards.

Mr. Stevens presented a market approach consisting of seven comparable sales ranging in sale price from $2,400,000 to $26,550,000 and in size from 45,752 to 329,866 square feet. After adjustments were made, the sales ranged from $55.08 to $102.82 per square foot of building area. Mr. Stevens concluded to a unit value of $70.00 per square foot and a value opinion by the market approach of $9,496,060.

Mr. Stevens developed an income approach to derive a value of $7,689,565 for the subject property. Mr. Stevens related seven comparable leases for areas ranging in size from 2,308 to 9,776 square feet at rates from $13.50 to $19.00 per square foot on a gross basis. Mr. Stevens adopted a rate of $15.00 per square foot from this research. Mr. Stevens then referenced reports from two publications as support for adoption of a deduction of 15% for vacancy. Expenses for the above leases ranged from $6.10 to $10.67 per square foot and Mr. Stevens adopted $6.00 per square foot based upon the subject's historic average of $6.28 per square foot. A capitalization rate of 9% was determined by reference to a regional survey. Mr. Stevens then "loaded" an additional 2.91% for taxes for an overall rate of 11.91%. The adjusted capitalization rate was applied to the net operating income to determine a value by the income approach of $7,689,565.

Petitioner's appraiser gave greatest weight to the income approach indicating the comparable rental data was the most reliable of all the information gathered. Mr. Stevens correlated to a final value estimate of $8,500,000.

Respondent presented the following indicators of value:

Market:	$14,922,000
Cost:	$Not applied
Income:	$15,218,000

Respondent's witness Mr. Jeff Hamilton, a Certified General Appraiser, presented a market approach consisting of four comparable sales ranging in sale price from $8,600,000 to $16,100,000 and in size from 76,085 to 169,369 square feet. After adjustments were made, the sales ranged from $102.45 to $110.61 per square foot. Mr. Hamilton concluded to a unit value of $110.00 per square foot and a value opinion by this approach of $14,922,000 (rounded).

Petitioner's Sale 3 and Sale 7 were also reported by Respondent. The adjusted indication for Petitioner's Sale 3 was $102.82 per square foot whereas Respondent concluded to $109.97 (Respondent's Sale 2). Petitioner's adjusted indication for Sale 7 was $76.65 per square foot and Respondent concluded to $102.45 (Respondent's Sale 4).

Respondent's witness used the income approach to derive a value of $15,218,000 for the subject property. Mr. Hamilton first considered the existing leases within the subject, all of which extend into 2016. Rents within the building, established from 2000 through 2007, range from $9.10 to $14.13 per square foot with an average of $13.54 NNN. Three additional rent comparables were presented for fully occupied single-tenant buildings that ranged from $9.15 to $13.50 per square foot NNN.

Mr. Hamilton stated the low end of the above range was "entry level" and when stabilized it should be $1.25 to $1.50 per square foot more. After adjustments to the comparable leases Mr. Hamilton adopted a rate of $10.50 per square foot on a NNN basis. A vacancy level of 10% was determined based upon published information. A deduction of 8% of collected income was applied to represent management, administration and replacement reserves. The resulting net operating income was capitalized at an overall rate of 7.75% based upon nine reported transactions with rates ranging from 6% to 9%. Additional sources for Respondent's capitalization rate included analysis by use of the Band of Investment; Debt Coverage Ratios and survey data from two publications. Based upon the above Mr. Hamilton concluded to a value opinion of $15,218,000 by this approach.

Mr. Hamilton reconciled the two value indications and gave equal weight to both approaches and concluded to a final value of $15,000,000.

Petitioner contends Respondent did not properly apply the approaches to value and failed to take into consideration current market conditions and the physical obsolescence of the property. Petitioner states that Respondent has improperly valued the property by overstating the income; failing to recognize the higher costs of maintenance of an atrium building; failing to recognize the physical obsolescence in the subject's design; failing to consider the subject's limited parking; inappropriately considering the property as a single tenant use and incorrectly applying NNN lease rates in the income approach.

Respondent contends the property is occupied by a single tenant and the valuation must be related to current use. Respondent claims Petitioner has ignored the actual income and expenses for the subject and has incorrectly presented the lease arrangement with a resulting low and unsupportable value conclusion. Respondent also questions Petitioner's use of very small leases in multi-tenant buildings as truly representative of the subject's income stream.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The Board turned first to Petitioner's market approach. Petitioner's Sale 1 was the subject of an objection as the sale occurred after the base period and was not under contract prior to the value date. The Board did not find Petitioner's assertion that the parties were in negotiation as sufficient justification to include the sale.

The Board reviewed the relevant information included within Petitioner's report and found the following comparable sales data, as provided by CoStar, to be instructive.

SALE #	TAXES + OPS	RENT/sf PER YEAR
2	$7.39	$19.03
3	$7.25	$18.70
4	$8.18	$24.50
5	$7.39-$7.99	$17.58
6	$11.33	$22.00
7	$8.69	$21.00
AVERAGE	**$8.32**	**$20.47**

The Board then considered Petitioner's EX. 1, pages 44-1 and 44-8. Total income reported for the subject for 2011 was $3,202,600, or, $23.61 per square foot of rentable area. Total income reported for 2012 was $3,346,664, or, $24.67 per square foot of rentable area.

Based upon the above, the Board was unable to give credence to Petitioner's conclusion of a lease rate of $15.00/sf on a "full service" basis. Data within Petitioner's own exhibits contradicted that assertion and suggested the subject's potential income has been understated by more than 25%.

The Board also considered Petitioner's analysis of the capitalization rate to have been insufficiently complete. Petitioner's agent ignored four capitalization rates presented within his own report and instead chose to relate survey information from a regional publication as the most reliable. The exclusion is particularly egregious given that Respondent's appraiser was able to relate <u>eight</u> additional capitalization rates from recent transactions within the market area.

In addition, the Board finds Petitioner's use of a "loaded" capitalization rate to have been unsatisfactorily developed. Petitioner's agent concluded to a capitalization rate of 9% from the regional publication. Capitalization rates within that publication are quoted as NNN and they therefore include property taxes. Petitioner's agent then added an additional 2.9% to the overall rate that already included a tax component and as a result vastly overstated the appropriate overall rate.

ORDER:

The petition is denied.

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-nine 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-nine 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 29th day of July, 2014.

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Near

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

Milla Lishchuk

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