

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66421

Petitioner:

**ST. PAUL FIRE AND MARINE INSURANCE
COMPANY,**

v.

Respondent:

ARAPAHOE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 6, 2016, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**6061 S. Willow Drive, Greenwood Village, Colorado
Arapahoe County Schedule No. R032885840**

The subject is a three-story, 135,658 square foot (rentable) office building that was built in 1980. The building is situated on a 6.41-acre site. As of the date of value, the subject was fully leased to TriZetto Corporation, but occupied by Comcast via a sublease agreement dated September 2013.

Petitioner is requesting an actual value of \$8,400,000 to \$8,600,000 for the subject property for tax year 2015. Respondent assigned a value of \$14,783,000 for the subject property for tax year 2015.

Mr. Daniel Beer of Cushman and Wakefield, leasing agent for the subject, reported that the atrium is a liability to the building, with above average costs associated with maintenance, plants and water features. He reported that other dated features, such as original HVAC or 80-foot depth between the glass-line and core was inefficient and offered no flexibility to tenants in the building.

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates Cost Reduction Specialists, Inc., testified that as of the date of value the lease to TriZetto Corporation was not expected to be renewed

after the July 2016 expiration, as they had vacated the space in 2012. The lease for additional parking spaces also had a known expiration date of July 2017, with no assurances that it could be renewed for future use.

Petitioner presented the following indicators of value:

Market:	\$8,817,770
Cost:	Not applied
Income:	\$8,340,766

Mr. Stevens presented a market approach consisting of five comparable sales ranging in sale price from \$5,310,000 to \$26,550,000 and in size from 82,365 to 329,866 square feet, indicating a range in value of \$54.98 to \$87.28 per square foot. After adjustments were made, the sales ranged from \$50.03 to \$75.66 per square foot. Mr. Stevens concluded to a value of \$65.00 per square foot for the subject or \$8,817,770 using the market approach.

Petitioner presented an income approach to derive a value of \$8,340,766 for the subject property. Mr. Stevens identified six leases that he considered representative of the market as of the date of value. This included the sublease agreement negotiated during the base period with Comcast at \$10.98 per square foot, full service for expenses. The lease is scheduled to expire in July 2016 when Comcast is reportedly moving to a new building; information that was known as of the date of value. With consideration given to the Comcast lease as well as the other leases analyzed, Mr. Stevens concluded to a rental rate of \$14.00 per square foot for the subject, full service for operating expenses.

A deduction of 10% was applied for vacancy allowance, \$4.50 per square foot was deducted for expenses (not including taxes), and 10% was deducted to cover the landlord operating, maintenance and reserve expenses. Mr. Stevens then applied a tax loaded capitalization rate of 11.12% (8.25% capitalization rate plus tax load of 2.87%) to conclude to a value of \$8,340,766 using the income approach. Mr. Stevens later presented an alternative analysis applying a net rental rate of \$6.50 per square foot, 10% vacancy, and a 10% deduction for landlord expenses, capitalized at an unloaded rate of 8.25% to provide a value of \$8,657,454.

Giving the greatest reliance to the income approach, Mr. Stevens concluded to a value of \$8,400,000.

Respondent presented the following indicators of value:

Market:	\$15,600,000
Cost:	Not applied
Income:	\$16,474,307

Respondent witness, Mr. Mark Kane, Certified General Appraiser with the Arapahoe County Assessor's Office, presented a market approach consisting of five comparable sales ranging in sale price from \$11,250,000 to \$27,000,000 and in size from 130,998 to 157,294 square feet to indicate a range of \$71.75 to \$171.65 per square foot. After adjustments were made, the sales indicated a range from \$93.28 to \$145.91 per square foot. Placing the greatest weight on sales 1, 2 and 4, Mr. Kane applied a value of \$115.00 per square foot indicating a value of \$15,600,000 within the market approach.

Respondent used the income approach to derive a value of \$16,474,307 for the subject property, after correcting an error in the operating expense deduction applied at hearing. Mr. Kane applied a rental rate of \$11.00 per square foot net of expenses for rental income of \$1,492,238. Vacancy and collection loss of 10% and operating expenses of 8% were deducted, to indicate net operating income of \$1,235,573. Mr. Kane applied a stabilized capitalization rate of 7.5% to conclude to a value of \$16,474,307.

Mr. Kane concluded to a value of \$16,000,000 within the appraisal; however, Respondent assigned a lower actual value of \$14,783,000 to the subject property for tax year 2015.

Petitioner contends that the subject reflects the original 1980's design and construction quality, with minimal updating over its approximate 35-year life. The building includes a three-story central atrium (a design attribute at the time of construction) that raises the core factor to 20%; high compared to a market average of 12% to 15%. The building also has limited parking, at a ratio of 3.27 spaces per 1,000 square feet. The building ownership has leased space from an adjacent building to supplement the subject's parking. The future of that lease is uncertain, and should not be valued as part of the subject.

Petitioner further contends that Respondent relied on superior sales that included lease-back agreements or buildings that had been renovated and were in superior condition compared to the subject. Of the five sales presented by Mr. Kane, Petitioner found sale 5 to be representative prior to the 30% upward adjustment applied for conditions of sale as a bank-owned property. Respondent's sale 5 indicated an unadjusted sales price of \$71.75 per square foot or \$93.28 after adjustment.

Respondent contends that Petitioner valued the subject as a multi-tenant property, when in fact it was under a lease agreement with a single tenant, TriZetto, as of the date of value. Respondent believes that the atrium is an asset to the value of the building and that the subject has been appropriately upgraded and remodeled since construction. Respondent considers that additional leased parking creates a parking ratio that is comparable to other properties in the market.

Respondent contends that the Board should take note of a prior determination issued in 2014 concerning the subject value for tax year 2013, identified as docket 62470. The Board places no reliance on the prior decision, as each BAA hearing is de novo in nature and each decision relies on a specific set of facts, data and analysis presented through testimony and exhibits.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2015 valuation of the subject property was incorrect. The Board was convinced by data and analysis presented by Petitioner that the expansive atrium in the subject created an uncompetitive high load factor and was not an asset to the property. The subject had not undergone any major remodeling since completion in 1980, leaving HVAC, elevator and other systems dated compared to the properties relied on by Respondent as comparable. Further, the subject has no sprinklers, but does have the original roof and elevators. The Board finds that Respondent gave insufficient consideration to the dated building systems, lack of parking, and above average expenses associated with the atrium.

For purposes of valuing the building, the parking leased from the adjacent owner should not be considered in the determination of the parking ratio for the subject. The property was subject to a sublease agreement with Comcast on the date of value; however, it had been vacant during the base

period, from September 2012 to late-2013. The Board was convinced that the property was correctly valued as a single tenant office building.

After consideration of all three approaches, the Board finds that the income approach is the best method for valuing the subject. Neither party prepared a cost approach and the Board found the sales and analysis presented by both parties to be limited to support value.

Petitioner considered the September 2013 sublease to Comcast that occurred within the subject at a full service rental rate of \$10.98 per square foot. The Board gives no consideration to the lease agreement with TriZetto, as it was entered into over a period of years, from 2000 to 2007. Additional lease information supported a higher rate ranging from \$17.00 to \$19.50 per square foot full service. Mr. Stevens concluded to a rate of \$14.00 per square foot, above the sublease rate with Comcast, but below the range indicated by the remaining comparable leases. The Board found Respondent's comparable lease information to be less supportive, as it included a mixed-use property and all three were lease renewals of existing tenants.

Both parties utilized a 10% deduction for vacancy and collection loss. Respondent deducted 8% to account for owner's expenses for operation, non-reimbursed maintenance and reserves, while Petitioner utilized a higher rate of 10%. Petitioner used a tax-loaded capitalization rate of 11.12% (8.25% capitalization rate plus tax load of 2.87%); however, Respondent applied a lower rate of 7.5%.

The Board finds that Petitioner understated the appropriate market rental rate for the subject while Respondent understated the risk associated with the property by rounding down the capitalization rate applied. Both parties presented evidence to suggest a full service rental rate in the \$18.00 to \$20.00 range (see Petitioner's comparable leases in Exh. 1, page 35 and both parties survey data in Exh. 2, page 3-4; and Exh. A, pages 67-69). A full service rental rate of \$19.00 per square foot is supported. Respondent estimated operating expenses (including taxes) of \$9.50 per square foot based on the 2013 BOMA Exchange Report. Actual operating expenses for the subject were shown to be \$10.46 for 2013 and \$10.96 for 2014. The Board finds a deduction of \$10.00 to be reasonable for operating expenses (including taxes), resulting in a net rental rate of \$9.00 per square foot.

Both parties deducted 10% for vacancy and credit loss. Petitioner made a deduction of 10% for owner's expenses and reserves, while Respondent utilized a lower deduction of 8% for non-reimbursable expenses. Owner's actual expenses were shown to be minimal. The Board finds Respondent's rate of 8% to be better supported by Respondent's analysis.

Respondent presented a range of capitalization rates from 6.75% to 8.42%, selecting a rate of 7.5%. Petitioner concluded to a rate of 8.25% for the subject (prior to adding a tax load of 2.87%). Market conditions, building vacancy, and other building economics should be considered in the selection of the capitalization rate for a property. In the case of the subject, the Board was convinced that the building had not been significantly updated, building systems were original, the property has been leased to a single tenant, and there was every indication that the leases were likely to expire in the near future. A rate at the upper end of the range best reflects these specific building conditions; therefore, the Board concludes to Petitioner's rate of 8.25%.

The income approach is recalculated as follows:

Net Rentable Square Footage:	135,658	
Potential Gross Income:	\$9.00 psf NNN	\$1,220,922
Less: Vacancy and Collection Loss:	10%	<u>(\$122,092)</u>
Effective Gross Income:		\$1,098,830
Less: Owners Expense, Reserves:	8%	<u>(\$87,906)</u>
Net Operating Income:		<u>\$1,010,924</u>
Capitalization Rate:	8.25%	\$12,253,624
Rounded:		\$12,253,600

The Board concludes that the 2015 actual value of the subject property should be reduced to \$12,253,600, equal to a value of just over \$90.00 per square foot.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$12,253,600.

The Arapahoe 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-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 19th day of May, 2016.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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.

Milla Lishchuk

Milla Lishchuk

