

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket No.: 67368 &
67369**

Petitioner:

IP EAT FIVE LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 2, 2016, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Amy Arlander, Esq. Respondent was represented by Rachel Bender, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Petitioner withdrew docket 67368 at hearing. The parties stipulated to the admittance of Petitioner's Exhibits 2, 3 and 4 along with Respondent's Exhibits A and B. The parties also stipulated to the admission of Troy W. Smith, Colorado Certified General Appraiser with Veracity Valuation, LLC along with Michael H. Earley and Joel Cuthbert, Certified General Appraisers with the Jefferson County Assessor's Office, as expert witnesses for the hearing.

Subject property is described as follows:

**4565 Indiana Street, Golden, Colorado 80403
Jefferson County Schedule No. 412062**

The subject is a light manufacturing industrial building that is occupied by the owner (dba International Paper) and used in the production of corrugated paper. The subject improvements consist of a total of 223,650 square feet of gross building area that was constructed in phases. Approximately 40% of the building (86,400 square feet) was originally constructed in 1960, with a 48,000 square foot addition made in 1969. This area represents the main manufacturing zone of the plant. An additional 40,394 square feet was added in 1993 to house large 2,000-pound paper rolls used in the manufacturing process. The rolls are delivered via a BNSF rail spur that accesses the

building at the southwest corner of the building. In approximately 1999, an additional 33,117 square feet was added to provide shipping and receiving area for materials necessary to the production process as well as distribution of finished product via large semi-trucks. The remaining square footage is used for office and mechanical area. Petitioner contends that 8,350-square feet of mezzanine space should be excluded, bringing the building size to 215,300 square feet for valuation purposes.

Petitioner's appraiser, Mr. Smith, valued the subject as a single, improved parcel of 9.42 acres. Respondent contends that the subject should be valued as a working unit that includes two adjoining land parcels (schedule #204441- withdrawn at hearing, and #208909- not protested), with the total value allocated to the individual schedule numbers.

Petitioner is requesting an actual value of \$6,200,000 for the subject property for tax year 2015. Respondent assigned a value of \$8,074,000 to the improved portion of the subject property at issue.

Mr. Christopher Hall, site manager with International Paper, testified on behalf of Petitioner. Mr. Hall described the subject and outlined issues associated with the property, noting difficulties with production in a property that included four separate additions and was situated on a narrow site. He testified that streets, driveways, and parking areas became congested with large trucks, based on an estimated 50 to 100 truck deliveries per day. Issues associated with the building also included upcoming replacement of a portion of the roof, rail line congestion, electrical, plumbing and lighting issues associated with the mix of building ages and asbestosis near the loading dock area.

Using a date of value of January 1, 2015, Petitioner's witness, Mr. Smith, presented the following indicators of value:

Market:	\$6,450,000
Cost:	Not applied
Income:	\$6,200,000

Petitioner's witness, Mr. Poling, presented a market approach originally consisting of four comparable sales. However, two sales were eliminated at hearing as being beyond the statutory base period. The remaining two sales ranged in sale price from \$2,536,800 to \$8,600,000 and in size from 72,625 to 227,500 square feet, indicating values of \$34.93 and \$37.80 per square foot. Both sales received upward adjustments for market conditions, as both sold in the early part of the base period in 2013. Adjustments were also made for difference in size, age, quality, condition, and general utility. After adjustments were made, the sales ranged from \$28.78 to \$31.45 per square foot. Mr. Smith concluded to a value of \$30.00 per square foot, or \$6,450,000 when applied to a building size of 215,300 square feet.

Petitioner presented an income approach to derive a value of \$6,200,000 for the subject property. Four properties were analyzed to determine the appropriate rental rate. All four properties were located in the eastern portion of the metro area. They ranged in size between 100,100 and 200,000 square feet and indicated a rental rate range of \$2.95 to \$3.86 per square foot, net of

expenses. Mr. Smith concluded to a rental rate of \$3.00 per square foot. He then added expense reimbursement of \$0.60 per square foot for common area maintenance (CAM) and insurance. Total potential gross income was calculated as \$775,080. Vacancy and collection loss of 10% was applied, indicating effective gross income of \$710,490. In addition to the CAM and insurance expenses estimated at \$0.60, Mr. Smith deducted a 4.0% management fee and non-reimbursable expenses of \$0.25 per square foot. After deducting \$211,425 (\$0.98 per square foot) of expenses, net operating income was calculated as \$499,065. A capitalization rate of 7.75% was applied to conclude to a value of \$6,200,000 for the subject using the income approach.

Total reliance was given to the income approach, with Petitioner requesting a value of \$6,200,000 for tax year 2015.

Respondent presented the following indicators of value for the combined three parcels:

Market:	\$13,195,000
Cost:	Not applied
Income:	\$11,920,000

Respondent's witness, Mr. Earley, listed thirteen warehouse sales, selecting eleven as part of his analysis. The remaining eleven sales ranged in sale price from \$5,000,000 to \$16,625,000 and in size from 85,500 to 260,325 square feet to indicate a range in value of \$37.86 to 88.27 per square foot. No adjustments were applied in this part of the analysis. The sales indicated a mean of \$61.79 and a median of \$62.94 per square foot. Mr. Earley applied a value of \$62.00 per square foot to a building size of 223,650 square feet, to indicate a total value for the three parcels of \$13,866,300.

In a second analysis, Mr. Earley applied regression analysis, factoring in building size, year of construction and site size. Under this analysis, he identified a value of \$62.82 per square foot or \$14,049,311, provided as support for the previously developed value.

Finally, in a separate rebuttal document, Mr. Earley selected five sales and performed the market approach. The five sales transacted between December 2010 and July 2014 and indicated a range in prices of \$8,300,000 to \$16,072,000, or \$37.80 to \$69.78 per square foot. After applying qualitative adjustments, Mr. Earley concluded that the subject should be valued below \$66.51 per square foot, with Sales 2 and 3 considered equal to the subject after adjustment, representing values of \$61.38 and \$65.21 per square foot. Mr. Earley concluded to a value of \$62.00 per square foot. Afterwards, the witness made a downward adjustment of 5% for functional obsolescence to conclude to a value of \$59.00 per square foot or \$13,195,000, rounded, for the three properties combined.

Respondent used the income approach to derive a value of \$11,920,000 for the subject property and adjacent land. Mr. Cuthbert derived rental rates from six of the comparable sales used by Mr. Earley. He applied a rental rate of \$5.25 per square foot net of expenses. Vacancy and collection loss of 10% was deducted, with an additional 5.0% deducted for non-reimbursable expenses. The net operating income was calculated as \$1,003,909, which was capitalized at a rate of 8.0% to indicate a value of \$12,548,862. Mr. Cuthbert then applied a 5.0% discount for functional obsolescence to conclude to a value of \$11,920,000, rounded.

With the greatest weight applied to the sales comparison approach along with support from the income approach, Respondent's appraisal concluded to a value of \$12,900,000 for the three properties analyzed. The assessor's assigned value for schedule #204441 (\$837,300) and allocated value for schedule #208909 (\$103,800) were deducted to indicate a value of \$11,958,900 to the improved parcel identified as schedule #412062.

Respondent assigned an actual value of \$8,074,000 to the subject property for tax year 2015.

The Board was convinced that the improved property operates as a unit with the two adjacent parcels of land. Based on photos and testimony, the improvement is best described as a manufacturing building that was constructed in phases over a course of nearly 40 years (1960-1999). The incorporation of four different phases on a narrow site has resulted in functional obsolescence. While the building generally functions for the current owner's use, it would not likely be competitive as a multi-tenant, distribution warehouse even with significant renovation.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence..." *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Petitioner's witness, Mr. Smith, originally presented four comparable sales. However, two sales were eliminated as they sold beyond the statutory base period with no proof offered that either was under contract prior to June 30, 2014. Cross examination of this witness called into question some of the adjustments made to these sales, especially the lack of upward adjustment for an inferior location and the inclusion of a 10% downward adjustment for utility that was not supported by Mr. Smith.

Mr. Smith placed the greatest reliance on the income approach, where he relied on four leases of properties located in the eastern portion of the metro area, and again, made no adjustment for the inferior location. The Board found his deduction of management and non-reimbursable expenses to be excessive for a single tenant property that was being analyzed on a net basis.

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 1st day of September, 2016.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

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

