

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 <hr/> Petitioner: RG INVESTMENTS NO. 1 LLLP, v. Respondent: DOUGLAS COUNTY BOARD OF EQUALIZATION.	
Attorney or Party Without Attorney for the Petitioner: Name: Robert Hoff Hoff & Leigh, Inc. Address: 2500 N. Circle Drive Colorado Springs, Colorado 80909 Phone Number: (719) 630-2277 E-mail: bobhoff@hoffleigh.com	Docket Number: 41417
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on June 30, 2004, Judee Nuechter and Karen E. Hart presiding. Petitioner was represented by Mr. Robert Hoff. Respondent was represented by Michelle B. Gombas, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**11 Kellogg Court, Castle Rock, Colorado
(Douglas County Schedule No. R0411200)**

Petitioner is protesting the 2003 actual value of the subject property: a mixed-use property built in 1999 that is used for residential, office and mini-warehouse purposes.

ISSUES:

Petitioner:

Petitioner contends that the actual income and expenses of the subject property should be considered in the income approach, not estimated data.

Respondent:

Respondent contends that the subject is properly valued using all three approaches to value. The potential gross income of the property must be considered, not merely the actual income data.

FINDINGS OF FACT:

1. The subject property is a mini-warehouse facility built in 1999. There are multiple metal buildings containing 558 storage units and a caretaker's residence. The warehouse area comprises 74,715 square feet, the office area is 1,050 square feet, and the residence is 1,050 square feet, for a total improvement square footage of 76,815 according to Douglas County Assessor records. The residence area is located on the second floor above the office area.

2. Petitioner's witness, Mr. Robert Hoff, a commercial real estate broker, presented the following indicators of value:

Income:	\$2,140,130.00
Cost:	\$1,964,060.00

3. Petitioner's witness presented an income approach to derive a value of \$2,140,130.00 for the subject property.

4. Mr. Hoff testified that the Douglas County Assessor used typical rents and expenses rather than the subject's actual data. Actual income and expenses for 2001 and 2002 were provided to Respondent. A prospective purchaser would make an estimate of value based on a property's actual performance. Mr. Hoff used an average net operating income of \$214,013.00, based on the subject's actual 2001 and 2002 income, which he capitalized at 10%. The property taxes were included as an expense and not loaded into the capitalization rate.

5. Petitioner's witness presented a cost approach value for the subject property of \$1,964,000.00.

6. Mr. Hoff testified that he did not prepare a replacement cost new for the subject property. The December 2, 1998 contract to build the subject property totaled \$1,478,147.00. He added the Douglas County Assessor's land value of \$485,913.00 to the contract amount for a total of \$1,964,060.00, rounded to \$1,964,000.00. This resultant value supports his income approach

conclusion.

7. Regarding the market approach, Mr. Hoff testified that no comparable sales occurred during 2001 and 2002 in Douglas County. He pointed out that four of the Respondent's sales are outside the eighteen-month time frame and the remaining sales are located outside Douglas County.

8. Petitioner is requesting a 2003 actual value of \$2,140,130.00 for the subject property.

9. Respondent's witness, Mr. Mike Shafer, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented the following indicators of value:

Market:	\$2,988,600.00
Cost:	\$2,434,960.00
Income:	\$2,998,784.00

10. Based on the market approach, Respondent's witness presented an indicated value of \$2,988,600.00 for the subject property.

11. Respondent's witness presented seven comparable sales ranging in sales price from \$2,100,000.00 to \$3,500,000.00 and in size from 47,325 to 89,231 square feet. No adjustments were made to the sales.

12. Mr. Shafer testified that he found no comparable sales located in Douglas County. He considers sales 1, 2, 3, and 5 to be most comparable to the subject. He testified that Sale 3 was only 50% leased at the time of sale, is smaller than the subject, and the sales price was \$3,100,000.00. He concluded to an indicated value for the subject property of \$48.00 per square foot, which was from the upper end of the value range. Sales 3, 4 and 6 occurred in the extended base period.

13. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$2,434,960.00.

14. Mr. Shafer presented ten comparable land sales to conclude to an indicated land value of \$3.50 per square foot for the subject property. The subject land size is 194,365 square feet, for a total land value of \$759,500.00. The improvement value of \$1,675,460.00 was derived using Marshall Valuation Service cost tables.

15. Respondent's witness used the income approach to derive a value of \$2,998,784.00 for the subject property.

16. Mr. Shafer testified that he used typical rents of \$8.00 per square foot, 15% vacancy, and 30% expenses, with a capitalization rate of 12%. The gross income was owner-reported at \$8.92, but \$8.00 is a typical rent, as reported on comparable sales and on Douglas County Assessor surveys. His capitalization rate was derived from comparable sales, which indicated a base capitalization rate of 9.25%, to which he added an effective tax rate of 2.75%.

17. Regarding Petitioner's income approach, Mr. Shafer disagrees with the value as determined. Typical rents are \$8.00 per square foot with an indicated \$600,000.00 potential gross income (PGI). Petitioner's report indicates \$322,000.00 for gross income, about half of the PGI. The subject is a newer facility built in 1999 and he believes it could still be in the lease-up phase. He believes the subject property occupancy rate is increasing. He does not believe Petitioner is considering the vacant units. For ad valorem purposes, taxes are added to the capitalization rate and are not taken as an expense.

18. Mr. Shafer testified that this type of property is usually purchased based on the income approach, so he gave it the most consideration in his reconciliation. He concluded to a value of \$2,990,000.00.

19. Respondent assigned an actual value of \$2,735,084.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2003 valuation of the subject property was correct.

2. Petitioner did not present a sales comparison approach to value. Respondent's witness did not make adjustments to his sales for location or physical differences. Therefore, the Board could give little weight to Respondent's market approach conclusion.

3. Regarding the cost approach, there was no dispute regarding the land value of the subject. However, Petitioner used a contract price for his improvement value, which is not an acceptable appraisal methodology, though the actual construction price can be used as support for a replacement cost new calculation. In contrast, Respondent used a state approved cost service, Marshall Valuation, to determine a replacement cost new for the subject improvements. Although Respondent used the acceptable methodology, little weight could be given to the value conclusion, as there were no calculations presented to show how the value was derived, nor any documentation to support the improvement conclusion.

4. The Board is left with the income approach, which both parties relied upon for their final value determination. Petitioner relied upon actual income and expenses whereas Respondent relied upon typical market income and expenses. The subject property's actual income and expenses can be considered if it can be determined that they represent typical amounts.

5. As noted by Respondent's witness, the subject property is a fairly new facility that was built in 1999, making it approximately three years old as of the level of value date. The Board does not believe that the subject has yet achieved a stabilized income stream and therefore the Board relied upon typical income and expense data to determine the income approach value of the subject property. Respondent's vacancy rate, income, and expense data appear to be reasonable and was based on surveys of other similar properties according to witness testimony and documentation. The Board also accepts Respondent's tax loaded capitalization rate; property taxes are not deducted as an

based on surveys of other similar properties according to witness testimony and documentation. The Board also accepts Respondent's tax loaded capitalization rate; property taxes are not deducted as an expense but are loaded into the capitalization rate for ad valorem purposes.

6. After careful consideration of all of the testimony and evidence presented, the Board affirms the assigned value of \$2,735,084.00.

ORDER:

The petition is denied.


APPEAL:


Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 21st day of October 2004.

BOARD OF ASSESSMENT APPEALS

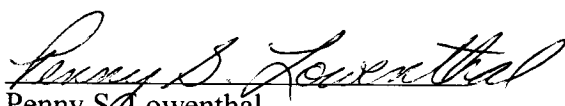

Judee Nuechter


Karen E. Hart

This decision was put on the record

OCT 21 2004

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


Penny S. Lowenthal

