

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioner:

NORTH STAR,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioner:

Name: Mark W. Gerganoff, Esq.
Frank & Finger, P.C.
Address: 29025-D Upper Bear Creek Road
P.O. Box 1477
Evergreen, Colorado 80437-1477
Phone Number: (303) 674-6955
E-mail: FANDFPC@aol.com
Attorney Reg. No.: 7224

Docket Number: 41908

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 13, 2004, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Mark W. Gerganoff, Esq. Respondent was represented by Jennifer Wascak Leslie, Esq. Petitioner is protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**550 West 53rd Avenue, Denver, Colorado
Adams County Schedule No. R0104122**

The subject property is a 128,000 square foot multi-tenant industrial warehouse located on 4.94 acres.

ISSUES:

Petitioner:

Petitioner contends that the subject should be valued based on the income approach using a rental rate within the range represented by leases negotiated during the base period. The Petitioner further contends that the Respondent has incorrectly valued the subject as a flex building rather than as an older industrial warehouse.

Respondent:

Respondent contends that subject property was valued correctly for tax year 2003.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Todd Stevens, a Registered Appraiser with Stevens & Associates Cost Reduction Specialists, Inc., presented the following indicators of value:

Market:	\$2,546,000.00
Income:	\$2,027,614.00

2. Petitioner's witness presented three comparable sales in the market approach. All of Petitioner's comparables sold or were negotiated within the base period. The sales ranged in price from \$20.35 to \$34.72 per square foot. After adjustments were made for time, location, age, size, excess land, economic characteristics and physical characteristics, the sales ranged from \$18.13 to \$21.87 per square foot. Mr. Stevens concluded to a value of \$2,546,000.00 or \$20.00 per square foot for the subject using the market approach.

3. In the income approach, Mr. Stevens included information regarding two leases within the subject that were negotiated during the base period with effective rates of \$2.29 and \$2.90 per square foot after adjustment for tenant finish allowance. Petitioner's witness presented five additional warehouse comparables with lease rates ranging from \$3.00 to \$3.65 per square foot. All five comparables were reportedly superior because of higher ceilings and/or superior locations. Mr. Stevens concluded to a market lease rate of \$2.50 per square foot for the subject.

4. Mr. Stevens reported that the subject was 21 percent vacant during the base period. Based on Ross Research data and CoStar reports, he concluded to a market vacancy rate of 15 percent for the subject. A 3 percent deduction from effective gross revenue was made for management fees, along with a 15 percent deduction for operating expenses and reserves. The deduction was based on market research and was reportedly higher due to the age and overall

condition of the subject. Mr. Stevens analyzed the capitalization rates of six sales and Integra Realty Resources summer 2002 Real Estate Survey to conclude to a capitalization rate of 11 percent. Mr. Stevens concluded to a value of \$2,027,614.00 or \$15.84 per square foot using the income approach.

5. Petitioner is requesting a 2003 actual value of \$2,200,000.00 for the subject property.

6. Respondent's witness, Mr. Terry Blake, a Registered Appraiser with the Adams County Assessor's Office, presented the following indicators of value:

Cost:	\$3,841,000.00
Income:	\$4,224,000.00

7. Mr. Blake relied on Marshall Valuation Service Costs in the cost approach analysis. Using a land value of \$1.50 per square foot, he concluded to a value of \$3,841,000.00 (rounded) based on the cost approach. Mr. Blake indicated that he placed little weight on the value indicated by this approach due to the subject's age.

8. In the income approach, Mr. Blake relied on information obtained from owner surveys performed by the Adams County Assessor's office to determine market rent. Respondent's six comparables indicated lease rates ranging from \$4.00 to \$6.37 per square foot, net of expenses. He concluded to a market lease rate of \$4.70 per square foot. Mr. Blake deducted a 10 percent vacancy and collection loss and 14.18 percent of effective gross income for expenses. He used a base capitalization rate of 9 percent and a tax rate of 2 percent for a total capitalization rate of 11 percent. The income approach indicated a value of \$4,224,000.00 for the subject.

9. Mr. Blake prepared a market approach as a test of reasonableness for the \$33.00 per square foot value indicated by the income approach. The three comparable sales included in the market approach ranged in price from \$27.46 to \$40.76 per square foot.

10. In testimony, Mr. Blake disputed the reliance on Petitioner's Sale 1 in the market approach. Mr. Blake testified that the property at 445 W. 53rd Place had been vacant since 1997, and that the property had been held as part of a court proceeding. He further noted that Sale 1 required \$1,000,000.00 in deferred maintenance, and therefore, was far inferior to the subject.

11. Mr. Stevens testified that Respondent's comparable sales were inappropriate. Respondent's Sale 1 was an option exercised by the tenant to purchase the building; and that the building, with excess land, 22 foot ceiling height and rail service, was far superior to the subject. He further reported that Respondent's Sale 2 was part of a bulk portfolio sale and that the Respondent had not considered the potential assemblage value. Mr. Stevens also reported that Respondent's Sale 2 was far superior to the subject, with higher ceilings, higher land-to-building ratio, and that it was fully leased to a single tenant at the time of sale.

12. Mr. Stevens also disputed the Respondent's higher market rental rate. Mr. Stevens testified that the lease of 5333 Bannock Street originated outside the base period in 1999 and reflects a high percentage (40 percent) of showroom space. Mr. Stevens testified that Lease 4 at 12300 Grant

Street was an owner-occupied facility and that the lease to Fisher Imaging was not arms-length. He testified that Lease 5 represented a flex building that was not comparable to the subject and that market information for Lease 6 indicates an asking rent of \$2.75 to \$3.25 per square foot compared to the Respondent's reported rate of \$4.00 per square foot.

13. Respondent assigned an actual value of \$4,224,000.00 to the subject property for tax year 2003.

CONCLUSIONS:

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

2. The Board was convinced by both the Petitioner and the Respondent that the most appropriate method for valuing the subject is the income approach.

3. The Board finds that the appropriate lease rate for the subject was between \$2.29 and \$2.90 based on leases of the subject property that were negotiated or transacted during the base period, as well as comparable lease information.

4. The Board was convinced that the Respondent relied on unconfirmed lease information that did not accurately reflect the market for multi-tenant warehouse buildings. The Respondent's lease information included non-arms-length transactions, as well as lease rates for flex-industrial buildings that are considered far superior to the subject.

5. The Board concluded that the 2003 actual value of the subject property should be reduced to \$2,200,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$2,200,000.00.

The Adams County Assessor is directed to change his/her records accordingly.

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 5th day of January 2005.

BOARD OF ASSESSMENT APPEALS

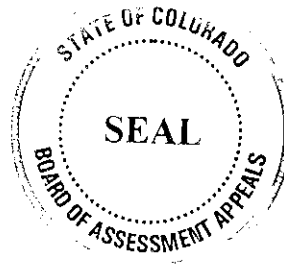
Debra A. Baumbach
Debra A. Baumbach

Sondra W. Mercier
Sondra W. Mercier

This decision was put on the record

JAN 05 2005

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



Penny S. Lowenthal
Penny S. Lowenthal