

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>IRONTON PARTNERS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Ronald P. Little Cushman and Wakefield</p> <p>Address: 4543 Post Oak Place #232 Houston, TX 77027</p> <p>Phone Number: (281) 497-2200</p>	<p><b>Docket Number: 42780</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 10, 2004, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by Ronald P. Little of Cushman and Wakefield, agent. Respondent was represented by Maria Kayser, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**5005 Ironton Street, Denver, Colorado  
Denver County Schedule No. 01143-04-012-000**

Petitioner is protesting the 2003 actual value of the subject property, an owner-occupied industrial warehouse.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the Respondent did not adequately address the subject's physical condition, that his vacancy rate was too low, and that the owner-occupied warehouse was unfairly compared to multi-tenant buildings.

### **Respondent:**

Respondent contends that the subject property was correctly valued using the market and income approaches.

## **FINDINGS OF FACT:**

1. The subject property is a 51,649 square foot masonry warehouse, half of it built in 1969, half in 1979. It is owner occupied.

2. Neither Petitioner nor Respondent weighted cost data, and it is not discussed herein.

3. Petitioner's witness, Mr. Ronald P. Little, representing Cushman & Wakefield, presented the following indicators of value:

Market:	\$1,200,000.00 to \$1,300,000.00
Income:	\$1,093,717.00

4. Based on the market approach, Petitioner's witness presented an indicated value range from \$1,200,000.00 to \$1,300,000.00 or from \$23.23 to \$25.17 per square foot for the subject property.

5. Petitioner's witness presented four comparable sales ranging in price from \$300,000.00 to \$3,650,000.00, from \$13.07 to \$30.98 per square foot, and in size from 20,660 to 130,057 square feet. The data was not presented in a grid, no adjustments were made, and Mr. Little testified that the sales data was not verified.

6. Mr. Little testified that a late 2002 Industrial Market Review published by Colliers Bennett and Kahnweiler, Inc. reported increasing vacancy rates, decreasing lease rates, and increasing operating expenses. Mr. Little presented four active listings during the base period priced between \$1,100,000.00 and \$4,000,000.00 or between \$27.00 and \$53.33 per square foot. He testified that available listings reflect the upper limits of value and are important because they are indicative of the subject's competition.

7. Mr. Little presented an income approach to derive a value of \$1,093,717.00 for the subject property.

8. Mr. Little used a triple net (NNN) rental rate of \$3.75 per square foot and an estimated vacancy and collection rate of 10%, including potential tax incentives and free rent. He used estimated annual expenses of 13%. His loaded capitalization rate of 11.435795% included a selected rate of 9.70% and an effective tax rate of 1.735795%. To this total of \$1,326,138.00 he added \$193,684.00 for income loss to lease-up and a 4% lease commission of \$38,737.00 for an estimated value of \$1,093,717.00.

9. Mr. Little testified that the subject was built for single-tenant occupancy and is owner occupied. It is not an investment grade or multi-tenant parcel and should not be compared to those types of properties.

10. Mr. Little testified that the subject improvement was near the end of its economic life. It has the original roof that leaked during the base period, wall damage from forklifts, and overall inferior condition not addressed by the Respondent.

11. Petitioner is requesting a 2003 actual value of \$1,200,000.00 to \$1,300,000.00 for the subject property.

12. Respondent's witness, Rick Rutt, a Certified General Appraiser with the Denver County Assessor's Office, presented the following indicators of value:

Market:	\$2,119,400.00
Income:	\$1,556,100.00

13. Based on the market approach, Respondent's witness weighted the market and income approaches to present an indicated value of \$1,837,700.00 for the subject property.

14. Respondent's witness presented four comparable sales located in the subject neighborhood of similar age that ranged in sales price from \$1,200,000.00 to \$1,857,000.00 and in size from 20,132 to 59,900 square feet. After adjustments were made, the sales ranged from \$1,537,074.00 to \$2,500,328.00 and adjusted prices per square foot ranged from \$29.76 to \$48.41. The indicated value was based on a mean of \$41.03 per square foot.

15. Adjustments were made in the market grid for building size, year of construction, wall height, office area, and land-to-building ratio. He testified that the market does not recognize any difference between single and multi-tenant occupancy and that his sales were a mix of the two. The comparable sales were verified with owners or tenants.

16. Respondent's witness presented an income approach to derive a value of \$1,556,100.00 for the subject property.

17. Mr. Rutt used a modified gross income rental rate of \$4.11 per square foot based on four rent comparables, a vacancy and collection loss of 9% and expenses of 13% based on confidential surveys completed by property owners. He applied a capitalization rate of 10.80%, which he described as a common rate for warehouses.

18. Mr. Rutt testified that Petitioner's Sale 1 was a below-market partial interest sale. Sale 2 had condition problems that affected its price, and Sale 3 sold as a lease-back to its current tenant so it was not a true market sale.

19. Mr. Rutt testified that the subject's physical condition was not dissimilar to the comparable sales and that employees told him the roof had been repaired.

20. Respondent assigned an actual value of \$1,628,000.00 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. The Board finds the Respondent's income approach to be better supported. The Board disagrees with Petitioner's use of both a NNN rental rate and a tax-loaded capitalization rate. The Board does not agree with tax incentive allowances and free rent in the vacancy and collection rate and is not persuaded that the use of income loss due to lease-up and lease commission expenses were appropriate.

3. The Board acknowledges Petitioner's contention that single-tenant sales are preferable to multi-tenant or investment comparables for the subject, which is owner occupied. However, Petitioner did not provide an adjustment grid, and tenant status was neither identified nor discussed for any of the sales in Petitioner's market approach.

4. The Board heard conflicting testimony regarding physical condition of the subject warehouse but is not convinced that it was significantly different from any of the comparable sales.

5. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$1,628,000.00 for tax year 2003.

## **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 28<sup>th</sup> day of July, 2004.

**BOARD OF ASSESSMENT APPEALS**

Karen E Hart  
Karen E. Hart

MaryKay Kelley  
MaryKay Kelley

This decision was put on the record

**JUL 28 2004**

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

