BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 _____ Petitioner: **JOHNSON PROPERTIES, LTD.,** v. Respondent: **DENVER COUNTY BOARD OF EQUALIZATION.**	Docket No.: 42941
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on September 16, 2005, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Mr. William H. Ebbert, Vice President of Johnson Properties, LLC. Respondent was represented by Max Taylor, Esq. Petitioner is protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

224 Acoma Street/35 West 2nd Avenue, Denver, Colorado
Denver County Schedule No. 05102-32-091-000

The subject property consists of a 3,898 square foot, one-story multi-tenant cinder block and frame building constructed in 1946. The subject lot is 14,900 square feet in size.

FINDINGS OF FACT:

1.   The subject building is in fair to poor condition and is used as a storage facility. The building does not have water, sewer or heavy electrical services. The building has four rental bays, two of which are heated, but have minimal insulation. Half of the building has been vacant since 2001.

2.   Petitioner did not present a cost or market approach.

3.   Petitioner presented an income approach to derive a value of $104,415.93 for the subject property. Petitioner's income approach was based on a monthly rental rate of $1,150.00 (approximately $3.54 per square foot based on 100% occupancy), a 5% vacancy rate, 10% expense rate, and an 11.3 % capitalization rate. The actual average gross income generated by the subject property is $575.00 per month, with the highest achieved rent at $600.00 per month gross. Petitioner pays for building maintenance expenses, taxes, insurance and utilities.

4.   The subject's four-space parking area is large enough to accommodate trucks. The subject's lessee uses two parking spaces and two spaces are used by, but not rented to, a neighboring property. If the subject building were 100% occupied, the lessees would likely use all four parking spaces. Petitioner admitted that the Highest and Best Use of the parking area might be to rent or sell the parking spaces. However, attempts to sell parking spaces to neighboring businesses have been unsuccessful. Respondent believes that the parking area is under-utilized and could be leased to generate additional revenue. The Board found no persuasive evidence to substantiate Respondent's claim that the subject parking spaces can be leased or sold.

5.   Petitioner is requesting a 2003 actual value of $104,415.93 for the subject property.

6.   Respondent assigned an actual value of $169,600.00 to the subject property for tax year 2003.

7.   Respondent presented the following indicators of value:

Market:	$172,097.00
Cost:	$173,900.00
Income:	$169,600.00

8.   For the market approach, Respondent presented five comparable sales ranging in sales price from $158,000.00 to $450,000.00 and in size from 1,836 to 7,500 square feet. After adjustments, the sales ranged from $44.15 to $60.24 per square foot. Respondent concluded to a value of $44.15 per square foot for a total indicated value of $172,097.00. The Board was not convinced that Respondent gave enough consideration to the subject's lack of street frontage, which the majority of Respondent's comparables appear to have.

9.   Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $173,900.00. Due to the age of the property, the cost approach was given little weight.

10.   Respondent derived a value of $169,600.00 for the subject property based on the income approach.

11.   Respondent's Exhibit 3 lists rental rates ranging from $4.00 to $29.98 per square foot for 109 properties located throughout the Denver area. Respondent's income approach was based on four comparable rental properties with rental rates ranging from $5.11 to $8.24 per square foot. After adjustments, the rental rates ranged from $5.62 to $7.04 per square foot. Respondent concluded to a rental rate of $5.75 per square foot for the subject property, which includes the

parking lot's potential to generate revenue. After applying a vacancy rate of 5%, an expense rate of 10% and a capitalization rate of 11.3%, Respondent concluded to an indicated value of $169,600.00 based on the income approach. Respondent placed most weight on the income approach.

CONCLUSIONS OF LAW:

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

2.   Both parties relied on the income approach to establish the value of the subject property. The Board agrees that most weight should be given to the income approach.

3.   In arriving at its conclusion of value, the Board used a rental rate of $4.00 per square foot (the low end of the market rental comparables presented), which more closely reflects the subject's actual income and lack of frontage; and applied the same vacancy, expense and capitalization rates used by both Petitioner and Respondent.

4.   After careful consideration of all of the testimony and evidence presented, the Board concluded that the 2003 actual value of the subject property should be reduced to $117,973.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to $117,973.00.

The Denver 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.

42941

DATED and MAILED this 4th day of November 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Karen E. Hart

This decision was put on the record

NOV 0 4 2005

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

Penny S. Lowenthal

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