

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JEMLEY PARTNERS,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 42978</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 8 and November 16, 2005, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Stephen E. Oxman, Esq. 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:

**1328 South Jason Street, Denver, Colorado
(Denver County Schedule No. 05211-18-029-000)**

The subject property consists of a 10,500 square foot industrial warehouse building constructed in 1983 on a 14,224 square foot site.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value:

Market:	\$523,800.00
Income:	\$538,650.00

2. Based on the market approach, Petitioner presented an indicated value of \$523,800.00 for the subject property.

3. Petitioner presented seven comparable sales ranging in sales price from \$355,000.00 to \$960,000.00 and in size from 5,661 to 18,800 square feet. After adjustments for time, land-to-building ratio, office build-out area, age, building size and ceiling height, the sales ranged from \$41.14 to \$62.10 per square foot. Sales 1 and 7 were removed from consideration during the hearing. The median sales price of the remaining sales was \$49.89 per square foot.

4. Respondent indicated that Petitioner's sales are located outside the subject neighborhood, have varying physical characteristics for which no or incorrect adjustments were made, and are not similar to the subject. The Board gave less consideration to Petitioner's market approach, as Petitioner's comparable sales were not independently verified.

5. Based on the income approach, Petitioner derived a value of \$538,650.00 for the subject property.

6. Petitioner presented four comparable rental properties with asking (not actual) rental rates ranging from \$5.50 to \$6.50 per square foot. No adjustments were made to Petitioner's rental comparables, as they were considered to be very similar to the subject. Petitioner chose a \$6.00 per square foot triple net rental rate, a 5 percent vacancy rate, and a 10 percent expense rate. Petitioner used a 10 percent capitalization rate based on reports by CoStar and Joseph Farber & Company.

7. Respondent pointed out that a 5 percent expense rate would be more appropriate for a triple net lease rate. The Board concurs.

8. Petitioner's capitalization rate study data included areas that are not comparable to the subject such as Colorado Springs, Lafayette, and Boulder. Additionally, the taxes should be loaded into the capitalization rate, as Respondent's survey indicated that over 50 percent of comparable property owners were responsible for the property taxes.

9. By applying a 5 percent expense rate and 10.8 percent tax loaded capitalization rate to Petitioner's calculations, the indicated value of the subject property would be \$526,454.00. However, the Board gave less weight to this conclusion as Petitioner did not use actual rental rates, and did not present sufficient data regarding physical characteristics and location for the Board to determine if adjustments to the comparable rental rates were necessary.

10. Petitioner requested a 2003 actual value of \$531,200.00 for the subject property, giving equal weight to the market and income approach conclusions.

11. Respondent presented the following indicators of value:

Market:	\$702,000.00
Cost:	\$569,500.00
Income:	\$586,600.00

12. Based on the market approach, Respondent presented an indicated value of \$702,000.00 for the subject property.

13. Respondent presented four comparable sales ranging in sales price from \$290,000.00

to \$750,000.00, and in size from 4,350 to 10,959 square feet. After adjustments for age, wall height, office area and land-to-building ratio, the sales ranged from \$65.71 to \$67.84 per square foot. All of the sales are located within one block of the subject property. Respondent used a median value of \$66.85 per square foot to value the subject property.

14. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$569,500.00. Due to the age of the improvements, Respondent gave no consideration to the cost approach. The Board agrees that the cost approach should be given little consideration.

15. Respondent used the income approach to derive a value of \$586,600.00 for the subject property. Respondent presented four comparable rental properties with actual rental rates ranging from \$4.57 to \$7.85 per square foot. The rental comparables were adjusted for year of construction, wall height, office area, and land-to-building ratio. Respondent selected a \$7.30 per square foot rental rate, a 5% vacancy rate, and estimated expenses of 3% for insurance, 5% for maintenance and reserves, and 5% for management. Respondent's capitalization rate of 10.8 percent included the tax rate. The concluded value of \$586,585.00, rounded to \$586,600.00, equates to \$55.86 per square foot.

16. Respondent's witness concluded to a value of \$702,000.00, with all weight given to the market approach, as these types of properties are usually owner-occupied and do not transact based on values indicated by the income approach to value.

17. Respondent assigned an actual value of \$692,200.00 to the subject property for tax year 2003.

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. Respondent gave all weight to the value indicated by the market approach. However, as a substantial discrepancy exists between the values indicated by Respondent's market approach and income approach, the Board concluded that both the market and income approaches should be given equal weight in determining the actual value of the subject property.

3. Giving equal weight to the value indicated by Respondent's market approach (\$702,000.00) and Respondent's income approach (\$586,600.00), the Board concluded that the 2003 actual value of the subject property should be reduced to \$644,300.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$644,300.00.

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.

DATED and MAILED this 30th day of December 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Karen E. Hart
Karen E. Hart

This decision was put on the record

DEC 29 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

