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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SUN LIFE ASSURANCE COMPANY OF CANADA</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION</p> | <p>Docket Nos.: 43042 and 43911</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on April 26, 2006, Sondra W. Mercier and Steffen A. Brown presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Laurie Heydman, Esq. Petitioner is protesting the 2003 and 2004 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**11333 East 55th Avenue, Denver, Colorado
Denver County Schedule No. 01141-01-012-000**

The subject property consists of a multi-tenant industrial warehouse with approximately 114,046 square feet (gross) or 111,680 square feet (net rentable) built in 1984 on a 7.15-acre site in the Montbello Industrial Park.

FINDINGS OF FACT:

1. Docket Numbers 43042 and 43911 were consolidated for the purpose of this hearing.

2. The parties presented the following indicators of value:

| | <u>Petitioner</u> | <u>Respondent</u> |
|---------|-------------------|-------------------|
| Market: | \$3,079,242.00 | \$4,105,700.00 |
| Cost: | N/A | \$4,457,519.00 |
| Income: | \$2,312,468.00 | \$3,845,700.00 |

3. Petitioner presented four comparable sales ranging in sales price from \$1,857,000.00 to \$5,500,000.00 or from \$20.35 to \$34.72 per square foot. The sales ranged in size from 59,616 to 201,500 net rentable square feet. After adjustments for location, age, size, excess land, economic and physical factors, the sales ranged from \$24.42 to \$29.51 per square foot. Petitioner reconciled to an indicated value of \$27.00 per square foot or \$3,079,249.00.

4. Petitioner's Comparable Sales 1 and 4, located outside the subject's immediate area, were 100% vacant during the base period, whereas Petitioner's Comparable Sales 2 and 3, located within the immediate area of the subject, were 100% occupied. Petitioner asserts that Sales 1 and 4 are more similar to the subject based on vacancy rates, as the subject had a 72% vacancy rate during the base period.

5. Respondent presented five comparable sales ranging in sales price from \$4,800,000.00 to \$8,251,200.00 or from \$31.39 to \$44.87 per square foot. Respondent's sales ranged in size from 92,704 to 228,367 square feet (gross). All of Respondent's comparable sales are industrial buildings located in the same industrial park as the subject. After adjustments for size, year of construction and wall height, Respondent's sales ranged from \$34.22 to \$42.18 per square foot. Respondent reconciled to an indicated value of \$36.00 per square foot or \$4,105,700.00.

6. Petitioner did not consider the cost approach due to age and depreciation. Respondent presented a cost approach but did not rely on the indicated value.

7. Both parties relied primarily on the value derived from the income approach using direct capitalization.

8. Petitioner presented six lease comparables ranging from \$3.00 to \$3.65 per square foot (unadjusted) on a triple net basis. One of the comparables presented was a lease for 30,860 square feet of the subject property that was executed during the base period at \$3.75 per square foot. With tenant finish, the effective rent reported was \$3.36 per square foot. The other five comparables were located outside the Montbello Industrial Park. Petitioner utilized a vacancy allowance of 15% based on reports from Ross and CoStar Comps that indicated multi-tenant warehouse vacancies at 13.8% and 16.4% respectively. Petitioner deducted a 3% management fee and 15% for operating, maintenance and reserves to derive an annual net income of \$254,371.00. Utilizing an 11% capitalization rate, Petitioner concluded to an indicated value of \$2,312,468.00. Given the clear indication that there are a number of lease comparables located within Montbello Industrial Park,

Petitioner's lease survey information was not credible. The 11% capitalization rate was found to be excessive, as was the 15% deduction for operating, maintenance and reserves since the lease rates were triple net.

9. Respondent used lease data from warehouses located in the same area as the subject to arrive at a modified gross rent rate of \$4.60 per square foot. Respondent used a stabilized vacancy and collection loss of 9%, 13% for expenses, and a market capitalization rate of 9% before applying the tax load of 1.8% to conclude to an indicated value of \$3,845,700.00. Respondent's lease rate information was not credible, as insufficient information was presented regarding when the leases were executed and because some of the rates presented were modified gross and some were net.

10. Respondent assigned an actual value of \$3,845,700.00 to the subject property for tax years 2003 and 2004.

11. The income approach provides the best indication of value for the subject property since the principle of anticipation is fundamental to the approach. Based on the evidence and testimony presented, the value of the subject property was calculated utilizing a triple net lease rate of \$3.75 per square foot, 9% for vacancy and collection loss, 13% for expenses and a 10.8% capitalization rate to conclude to an indicated value of \$3,070,037.00.

CONCLUSIONS OF LAW:

Sufficient probative evidence and testimony was presented to prove that the tax year 2003 and 2004 valuation of the subject property was incorrect.

ORDER:

Respondent is ordered to reduce the 2003 and 2004 actual value of the subject property to \$3,070,000.00 for tax years 2003 and 2004.

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 16th day of May 2006.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra W. Mercier

Steffen A Brown

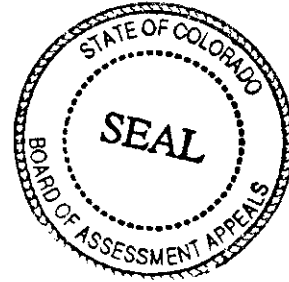
Steffen A. Brown

This decision was put on the record

MAY 15 2006

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



**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 43042 and
43911**

Petitioner:

SUN LIFE ASSURANCE COMPANY OF CANADA

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION

ORDER ON MOTION FOR RECONSIDERATION

The Board of Assessment Appeals received Respondent's Motion for Consideration on May 25, 2006 and Petitioner's Response to the Motion on June 9, 2006. The Board has carefully reviewed Respondent's Motion and Petitioner's Response.

The Board's Order dated May 16, 2006 is hereby amended as follows:

FINDINGS OF FACT

11. The income approach provides the best indication of value for the subject property since the principle of anticipation is fundamental to the approach. Based on the evidence and testimony presented, the value of the subject property was calculated utilizing 111,680 square feet of net rentable area, a triple net lease rate of \$3.75 per square foot, 9% for vacancy and collection loss, 13% for expenses and a ~~10.8%~~10% capitalization rate to conclude to an indicated value of ~~\$3,070,037.00~~\$3,315,640.00.

CONCLUSIONS OF LAW:

Sufficient probative evidence and testimony was presented to prove that the tax year 2003 and 2004 valuation of the subject property was incorrect.

ORDER:

Respondent is ordered to reduce the 2003 and 2004 actual value of the subject property to ~~\$3,070,000.00~~\$3,315,640.00 for tax years 2003 and 2004.

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

In all other respects, the Order dated May 16, 2006 shall remain in full force and effect.

DATED and MAILED this 16th day of June 2006.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Steffen A. Brown

Steffen A. Brown

This decision was put on the record

JUN 16 2006

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

