

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ST. PAUL PROPERTIES,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 43052 and 43890</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 30, 2006, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Alan Poe, Esq. Respondent was represented by Max Taylor, Esq. Petitioner is protesting the 2003 and 2004 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**10375 East Harvard Avenue, Denver, Colorado
(Denver County Schedule No. 06274-00-036-000)**

The subject is a multi-tenant office building with approximately 124,026 square feet of net rentable area based on the rent roll provided by Petitioner.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value:

Market:	\$7,441,560.00
Income:	\$5,931,220.00

2. Petitioner presented four comparable sales ranging in sales price from \$86.95 to \$96.41 per square foot. The comparable sale with the highest vacancy sold for the lowest price per

square foot and the comparable sale with the lowest vacancy sold at the high end of the range. The sales varied in size from 73,684 to 210,000 square feet. The sales occurred between September 1999 and January 2002. After adjustment, the sales ranged from \$57.85 to \$75.81 per square foot. The petitioner concluded to a value of \$60.00 per square foot for the subject property.

3. In the income approach, Petitioner utilized a gross rental rate of \$16.00 per square foot based on leases signed in the subject during the base period and comparable market rent analysis. An additional \$50,000.00 was added to the net revenue to reflect actual parking income. Although the subject property had a reported vacancy rate of 31.11 percent, Petitioner utilized a vacancy rate of 25 percent, a management fee of 5 percent, office expenses of \$5.25, leasing expenses of 2 percent, and reserves for replacement of 5 percent to conclude to an annual net income of \$696,918.00. The annual net income was capitalized at 11.75 percent based on a rate of 10.00 percent taken from an Integra Survey and an analysis of market sales plus a tax load of 1.75 percent.

4. Based primarily on the income approach, the Petitioner is requesting an actual value of \$6,000,000.00 for tax years 2003 and 2004 for the subject property.

5. Respondent presented the following indicators of value:

Market:	\$10,005,000.00
Cost:	\$11,203,800.00
Income:	\$9,261,100.00

6. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$11,203,800.00. Minimal consideration was given to the value indicated by this approach.

7. Respondent presented five comparable sales ranging in price from \$72.24 to \$118.98 per square foot. These sales occurred between May 1998 and November 2000, all prior to the 18-month base period. Minimal consideration was given to the value indicated by the market approach.

8. Respondent used the income approach to derive a value of \$9,261,100.00 for the subject property. The Respondent relied on confidential information collected by the Assessor's office to determine market rent of \$16.00 per square foot. Respondent added other income from parking, expense reimbursement and miscellaneous sources of \$93,156.00. Vacancy of 10 percent was used based on a study of the subject's market area over an extended period of time. Operating expenses of 38.1 percent were deducted based on market analysis. An 11.75 percent capitalization rate that included an effective tax rate was used to calculate an indicated value of \$9,864,200.00. The value indicated by the income approach was reduced by \$603,100.00 to reflect excess vacancy resulting in a final indicated value of \$9,261,100.00.

9. Respondent assigned an actual value of \$9,261,100.00 to the subject property for tax years 2003 and 2004.

10. The income approach was determined to provide the best indication of value for the subject property.

11. A market rent of \$16.00 per square foot, gross, is reflective of the market as of the date of value. Respondent's additional income of \$93,156.00 was determined to be excessive, as it includes expense reimbursement already reflected in a gross market rent and additional undefined miscellaneous expenses. Additional income in the amount of \$50,000.00 is appropriate, as it reflects the actual income from parking.

12. Although the subject did have considerable vacancy during the base period, neither Petitioner nor Respondent presented testimony or evidence to indicate that the excessive vacancy was a result of a functional problem with the building or its location. Consequently, a vacancy deduction of 10 percent was determined to be reasonable and substantiated by the market.

13. While a deduction for expenses and reserves for replacement are typical appraisal practice, additional deductions for management and leasing fees are not typical and were not substantiated. Office expenses of \$5.25 (not including taxes) and a reserve for replacement deduction of 5 percent are reasonable.

14. A capitalization rate of 10.0 percent is reflective of market and a tax load of 1.75 percent is appropriate.

15. The resulting value, delineated below, is greater than the value assigned to the subject property for tax years 2003 and 2004.

BOARD OF ASSESSMENT APPEALS CALCULATION BASED ON THE INCOME APPROACH			
NET RENTABLE AREA			124,026
RENT/SF	\$ 16.00		
GROSS RENTAL INCOME		\$	1,984,416
PARKING		\$	50,000
POTENTIAL GROSS INCOME		\$	2,034,416
LESS VACANCY	10%	\$	(203,442)
EFFECTIVE GROSS INCOME		\$	1,830,974
OFFICE EXPENSE	\$ 5.25	\$	(651,137)
RESERVES & REPLACEMENT	5%	\$	(91,549)
NET OPERATING INCOME		\$	1,088,289
CAPITALIZED AT	11.75%		
VALUE INDICATED BY INCOME APPROACH		\$	9,262,036
VALUE PER SQUARE FOOT		\$	74.68

CONCLUSIONS OF LAW:

Sufficient probative evidence and testimony was presented to prove that the tax year 2003 and 2004 valuations of the subject property were correct.

ORDER:

The appeal 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 16th day of May 2006.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Sondra W. Mercier

Sondra W. Mercier

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

