

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 44645

Petitioner:

SAFEWAY, INC.

v.

Respondent:

**MONTROSE COUNTY BOARD OF
COMMISSIONERS**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 30, 2006, Karen E. Hart and Lyle D. Hansen presiding. Petitioner was represented by Clifton Hypsher, Esq. Respondent was represented by Robert Hill, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2003 and 2004.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1329 S. Townsend Ave., Montrose, CO
Montrose County Schedule Number R0650918**

The subject property consists of a one-story freestanding concrete block supermarket with 51,160 square feet of gross building area and a 2,376 square foot canopy. The building is situated on a B-2 zoned site containing a total of 192,448 square feet.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value:

Market:	\$2,605,000.00
Cost:	\$2,725,000.00
Income:	\$3,078,000.00

2. For the market approach, Petitioner presented two comparable sales ranging in sales price from \$780,000.00 to \$1,200,000.00 and in size from 19,100 to 32,322 square feet. After adjustments, the sales ranged from \$959,400.00 to \$1,668,000.00 or from \$50.23 to \$51.61 per square foot. Petitioner concluded to an indicated value for the subject property via the market approach of \$2,605,000.00 or \$50.92 per square foot for tax years 2003 and 2004.

3. Petitioner also presented multiple sales in the form of CoStar Comps Reports (reference Petitioner's Exhibit B). However, these sales were not deemed substantive, as they were not independently confirmed, and were not similar to the subject in location or in use both before and after the sale.

4. In the cost approach, Petitioner presented three comparable land sales that ranged in sales price from \$3.38 to \$7.68 per square foot and in size from 65,141 to 658,337 square feet. After adjustments, the land sales ranged from \$3.88 to \$6.91 per square foot. Petitioner concluded to a land value for the subject property of \$5.27 per square foot. The replacement cost new (RCN) of the subject improvements was determined to be \$2,849,959.00. After applying a 40% adjustment for physical depreciation, the indicated value of the improvements was \$1,709,976.00. Petitioner concluded to a total indicated value of \$2,724,976.00 or \$2,725,000.00 (rounded) for the subject property based on the cost approach.

5. Petitioner's income approach was based on triple-net rents of \$6.00 per square foot, a vacancy factor of 5%, an expense ratio of 5% and a capitalization rate of 9.0%, resulting in a value indication of \$3,078,000.00.

6. Based on a reconciliation of all three approaches to value, Petitioner is requesting a reduction in value to \$2,850,000.00 for tax years 2003 and 2004.

7. Respondent presented the following indicators of value:

Cost:	\$3,150,000.00
Income:	\$3,080,000.00

8. Respondent presented five comparable vacant land sales that ranged in adjusted sales prices from \$4.83 to \$6.78 per square foot and in size from approximately 38,333 to 334,105 square feet. Respondent concluded to an indicated value of \$5.50 per square foot (rounded) for a total land value of \$1,060,000.00. After depreciation, Respondent concluded to an improvement value of \$2,086,239.00; thus, the total value indicated by Respondent's cost approach was \$3,150,000.00.

9. In the income approach, Respondent utilized triple-net rents of \$6.00 per square foot, a vacancy factor of 5%, an expense ratio of 5% and a capitalization rate of 9.0%, resulting in a value indication of \$3,080,000.00.

10. Respondent reconciled to a final value of \$3,150,000.00.

11. Respondent assigned an actual value of \$3,176,490.00 to the subject property for tax years 2003 and 2004.

12. Minimal weight was placed on Petitioner's market approach, as both comparables are located in the Clifton area, which is not considered comparable to the Montrose Market area. In addition, Sale 1 was part of a bankruptcy and Sale 2 was a deed back to the original owners and between related parties.

13. Minimal weight was placed on the value indicated by the cost approaches presented due to the subject's 1986 year of construction.

14. The income approaches presented by Petitioner (\$3,078,000.00) and Respondent (\$3,078,122.00 rounded to \$3,080,000.00) provide the best indication of value for the subject property.

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2003 and 2004.

2. The Board concluded that the 2003 and 2004 actual value of the subject property should be reduced to \$3,078,000.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2003 and 2004 actual value for the subject property of \$3,078,000.00.

The Montrose 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.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the

property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 3rd day of May 2006.

BOARD OF ASSESSMENT APPEALS

Karen E. Hart

Karen E. Hart

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

MAY 02 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

