

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 44657

Petitioner:

DILLON REAL ESTATE, INC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 16, 2006, Sondra W. Mercier and Lyle D. Hansen presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Eric Butler, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2002 and 2003

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1545 South Kipling Parkway, Lakewood, Colorado
Jefferson County Schedule No. 136530**

The subject property consists of a supermarket with a gross building area of 57,581 square feet constructed in 1981 on a 5.06-acre site.

FINDINGS OF FACT:

1. Petitioner presented the following indicators of value for tax year 2002:

Market:	N/A
Cost:	N/A
Income:	\$2,944,208.00

2. In the income approach, Petitioner utilized 55,786 square feet of net rentable area, triple-net rents of \$7.00 per square foot, a vacancy factor of 5%, a management fee of 3%, an

expense ratio of 10% and a capitalization rate of 11%, to conclude to an indicated value of \$2,944,208.00. Petitioner's 11% capitalization rate was based on an Integra Real Resources Survey that reported retail capitalization rates ranging from 8.5% to 12%. A 10% capitalization rate was deemed more appropriate for the subject property.

3. Respondent presented the following indicators of value for tax year 2002:

Market:	\$3,455,000.00
Cost:	\$4,925,920.00
Income:	\$3,473,000.00

4. In the market approach, Respondent presented nine comparable sales ranging in sales price from \$650,000.00 to \$13,500,000.00 and in size from 21,735 to 76,267 square feet, with prices allocated to the anchor/big box portions of the sales ranging from \$23.00 to \$120.58 per square foot. Respondent concluded to a value of \$60.00 per square foot for the subject property.

5. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value of \$4,925,920.00 for tax year 2002. Due to the age of the improvements, Respondent placed little weight on the value indicated by the cost approach.

6. Respondent's income approach was calculated utilizing triple-net rents of \$7.00 per square foot for 57,581 square feet of rentable grocery area, \$2.50 per square foot for 2,205 square feet of storage area, a vacancy factor of 5%, expenses of \$.70 per square foot for the grocery area, expenses of \$.25 per square foot for the storage area, and a capitalization rate of 10.0%, to conclude to an indicated value of \$3,473,000.00. Respondent's income approach improperly included \$4,686.00 in revenue attributable to a basement storage area with poor access.

7. Petitioner presented the following indicators of value for tax year 2003:

Market:	\$2,789,300.00
Cost:	N/A
Income:	\$2,628,757.00

8. In the market approach, Petitioner utilized three comparable sales ranging in price from \$1,900,000.00 to \$3,925,000.00 and in size from 44,279 to 55,935 square feet. After adjustments for age and location, the sales ranged from \$40.76 to \$58.24 per square foot. Petitioner concluded to an indicated value of \$50.00 per square foot for the subject property.

9. In the income approach, Petitioner utilized 55,786 square feet of net rentable area, triple-net rents of \$6.25 per square foot, a vacancy factor of 5%, a management fee of 3%, an expense ratio of 10% and a capitalization rate of 11.0%, to conclude to an indicated value of \$2,628,757.00. Petitioner's rental rate of \$6.25 per square foot was not substantiated, and a capitalization rate of 10% was determined to be more appropriate for the subject property.

10. Petitioner concluded to an indicated value of \$2,650,000.00 for tax year 2003.

11. Respondent presented the following indicators of value for tax year 2003:

Market: \$3,455,000.00
Cost: \$4,987,510.00
Income: \$3,732,000.00

12. Respondent presented seven comparable sales ranging in sales price from \$2,525,000.00 to \$42,011,600.00 and in size from 26,040 to 71,410 square feet, with prices allocated to the anchor/big box portions of the sales ranging from \$23.00 to \$120.58 per square foot. Respondent concluded to an indicated value of \$60.00 per square foot for the subject property.

13. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for 2002 for the subject property of \$4,987,510.00. Respondent gave the cost approach the least consideration in the valuation of the subject property due to the age of the improvements.

14. In the income approach, Respondent utilized triple-net rents of \$8.00 per square foot for 57,581 square feet of rentable grocery area, rents of \$2.50 per square foot for 2,205 square feet of storage area, a vacancy factor of 5%, expenses of \$1.20 per square foot for the grocery area, expenses of \$.25 per square foot for the storage area, and a capitalization rate of 10%, resulting in a value indication of \$3,732,000.00. Respondent's income approach improperly included \$4,686.00 in revenue attributable to a basement storage area with poor access.

15. Respondent reconciled to an indicated value of \$3,700,000.00 for the subject property for tax year 2003.

16. The value assigned to the subject property was \$3,423,100.00 for tax year 2002 and \$3,685,200.00 for tax year 2003.

17. The income approach to value provides the best indication of value for the subject property. The value of the subject property was recalculated utilizing a net rentable area of 55,786 square feet, an absolute net rental rate of \$7.00 per square foot, a vacancy and collection loss rate of 5%, a management fee of 3%, an expense ratio of 10%, and a capitalization rate of 10%, to conclude to an indicated value of \$3,238,600.00.

CONCLUSIONS OF LAW:

1. Sufficient probative evidence and testimony was presented to prove that the assigned value of the subject property for tax years 2002 and 2003 was incorrect.

2. The Board concluded that the actual value of the subject property should be reduced to \$3,238,600.00 for tax years 2002 and 2003.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2002 and 2003 actual value for the subject property of \$3,238,600.00.

The Jefferson 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 23rd day of June 2006.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

JUN 22 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

