

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>2500 BROADWAY AT PORTLAND, LLLP</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 45780</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 7, 2006 and November 1, 2006, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by Bartley A. Costello, Esq. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2005 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**2500 Broadway, Boulder, Colorado**  
**Boulder County Account No.: R0006432**

The subject property consists of a 3,512 square foot two-story brick masonry office building constructed in 1979 on a 9,200 square foot site.

**FINDINGS OF FACT:**

1. Petitioner presented no appraisal to substantiate his estimated market value of the subject property.
2. Petitioner presented an indicated value of \$785,000.00 for the subject property.

3. Petitioner contends that Respondent's assigned value does not take into consideration the presence of underground contamination and the \$600,000.00 cost to remediate the contamination.

4. The Petitioner stated that current zoning would allow redevelopment of a four-story office building on the subject site, but that would require additional sub-surface parking to meet the new parking demand. Given that the sub-surface development could penetrate the contaminated area, the owner is prevented from redeveloping the site to its legally permissible highest and best use.

5. Petitioner is requesting a 2005 actual value of \$785,000.00 for the subject property.

6. Respondent presented the following indicators of value:

Market:	\$1,053,000.00
Cost:	\$1,158,500.00
Income:	\$ 833,000.00

7. Based on the market approach, Respondent presented an indicated value of \$1,053,000.00 for the subject property.

8. Respondent presented four comparable office building sales ranging in sales price from \$665,000.00 to \$1,295,000.00 and in size from 2,240 to 5,484 square feet. After adjustments, the sales ranged from \$238.50 to \$330.33 per square foot.

9. Respondent concluded to an estimated value of \$300.00 per square foot or \$1,053,000.00 based on the market approach.

10. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,158,500.00.

11. Respondent utilized four comparable land sales to derive a land value estimate of \$920,000.00; a total reproduction cost new of \$340,648.00; and depreciation of \$102,194.00.

12. Respondent used the income approach to derive a fee simple value indication of \$833,000.00 for the subject property.

13. Respondent concluded an office rental rate of \$24.00 per square foot; a vacancy and collection loss factor of 5%; expenses of 22%; and an overall capitalization rate of 7.5%.

14. To further substantiate the market value of the subject property, Respondent presented a Warranty Deed dated April 7, 2004 that indicates Petitioner purchased the property for \$1,050,000.00. Respondent pointed out that Mr. Costello testified that he was aware of the "No

Further Action” letter prior to purchasing the subject property. Thus, the contamination had no affect on the market value of the subject property.

15. Respondent assigned an actual value of \$1,018,500.00 to the subject property for tax year 2005.

### **CONCLUSIONS OF LAW:**

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2005 valuation of the subject property was correct.

2. Petitioner’s argument regarding highest and best use is inapplicable to the subject property. *Ad valorem* taxation is based on the use of the property as it existed on the relevant assessment date. The “No Further Action” letter had no impact on the price Mr. Costello paid for the subject property and the sub-surface contamination did not affect the use of the subject property as it existed on the relevant assessment date.

3. We found Respondent’s market approach provided the most accurate indication of value for the subject property. The office building sales that were used occurred within the base period and were comparable to the subject property in location and physical characteristics. The indicated value of Respondent’s market approach exceeds the value assigned to the subject property for tax year 2005; therefore, the appeal is denied.

### **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 28<sup>th</sup> day of November 2006.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Lyle D. Hansen*

Lyle D. Hansen

This decision was put on the record

**NOV 27 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

