

<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>YAMPA VALLEY LAND AND CATTLE,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No. 51283</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 3, 2010, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Michelle Bush, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2005 and 2006.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**4925-4975 Nome Street, Denver, Colorado  
(Denver County Schedule No. 01144-10-026-000)**

The property consists of a 50,460 square foot, multi-tenant office/warehouse building located in the Montbello submarket of the City and County of Denver. The building was constructed in 1978, has approximately 16% to 18% office finish, and is rail served. Construction is prefabricated concrete and metal and clear height is reported to be 16 to 21 feet. Site size is 89,950 resulting in a 1.78:1 land-to-building ratio and zoning is I-2 through Denver. There are ten loading doors to the front of the building and one to the rear. HVAC is via forced air units. Access to the building is from curb cuts on Nome Street. The building was 100% leased during the base period.

Petitioner presented the following indicators of value:

Cost:	N/A
Market	\$1,174,532.00
Income:	\$1,067,943.00

Based primarily on the analysis contained in the Income Approach, Petitioner presented an indicated value of \$1,100,000.00 for the subject property.

Petitioner's witness presented a Market (Sales Comparison) Approach that included five comparable sales ranging in sales price from \$1,500,000.00 to \$4,100,000.00 and in size from 45,805 square feet to 143,610 square feet. After adjustments were made, the sales ranged from \$20.67 to \$25.45 on a per square foot basis. The major adjustments to the comparable sales consisted of location, age, physical characteristics, excess land, and building square footage resulting in a reconciled value via the Market Approach of \$23.31 per square foot or \$1,174,532.00.

Petitioner also presented an Income Approach resulting in a value of \$1,067,943.00 for the subject property. A direct capitalization model was used and consisted of income estimated at \$3.20 per square foot. CAM reimbursements were estimated at \$1.15 per square foot based on a vacancy allowance of 15% and expenses including management were estimated at 18% of effective gross income. The net operating income was capitalized at an 11.37% rate which included a load for taxes resulting in the estimated capitalized value for the property of \$1,067,943.00.

Petitioner argued that the physical attributes of the building including office finish, location, electrical service, clear height, and access issues resulting from the culvert along Nome Street resulted in functional obsolescence. Petitioner further argued that the sale and rent comparables used by Respondent were not reliable.

Petitioner is requesting a 2005 and 2006 actual value of \$1,100,000.00 for the subject property.

Respondent presented the following indicators of value:

Cost:	\$1,913,500.00
Market	\$2,018,400.00
Income:	\$1,839,300.00

Based on the Sales Comparison Approach and Income Approach, Respondent concluded an indicated value of \$1,900,000.00 for the subject property.

Respondent presented a Cost Approach reflecting a land value of \$3.00 per square foot or \$269,900.00. Replacement cost was estimated using a state-approved service at \$1,643,600.00 resulting in an indicated value of \$1,913,500.00.

Respondent's witness presented a Sales Comparison Approach that included three comparable industrial building sales ranging in sales price from \$1,679,800.00 to \$2,300,000.00 and in size from 39,764 square feet to 55,533 square feet. After adjustments were made the sales ranged from \$40.22 to \$41.04 on a per square foot basis. The major adjustments to the comparables sales were for location, finish, extended office, and volume (e.g. wall height) resulting in an indication of value of \$40.00 per square foot or \$2,018,400.00.

In addition Respondent presented an Income Approach reflecting a value of \$1,839,300.00 for the subject property. A direct capitalization model was used to arrive at this value and consisted of income estimated at \$4.50 per square foot. A vacancy and collection factor was estimated at 10% and expenses were estimated at 10% of effective gross income. The net operating income was capitalized at a 10.00% rate exclusive of a tax load resulting in the estimated capitalized value for the property of \$1,839,300.00.

According to Respondent, the estimates of income were based on a confidential rent survey of leases in the Denver industrial market. The source of the vacancy rate and expenses was not disclosed, and the overall rate was based on sales within the market and third-party investor reports.

Respondent argued that the extended office area and the rail service contributed to the value of the subject. Respondent further argued that access issues resulting from the culvert along Nome Street were not significant and that the income and expenses provided by Petitioner in their Income Approach were not reflective of the market.

Respondent assigned an actual value of \$1,887,800.00 to the subject property for tax year 2005 and 2006.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2005 and 2006 valuation of the subject property was incorrect.

Given the characteristics of the property, the Board concludes that the Income Approach provides the most realistic indication of market value for the subject. After further review of the income, expense, and rate estimates used in the two direct capitalization models, the Board determines that a more supportable indication of value draws from both Petitioner's and Respondent's models.

A reconstructed Income Approach using what the Board agrees to be the most supportable variables within each model is as follows:

Gross Income	50,460 sf @ \$ 3.75	\$ 189,225
Vacancy Factor	10.00%	\$ 18,923
Effective Gross Income		\$ 170,303
Expenses		
management	3.00%	\$ 5,109
operating expenses	7.50%	\$ 12,773
Total Expenses		\$ 17,882
Net Operating Income		\$ 152,421
Overall Rate		9.50%
Indicated Value		\$ 1,604,429
per square foot		\$ 31.80

After reviewing the lease comparables provided by both parties, the Board concludes that the market for the subject property is best represented by the leasing of the building during the base period at \$3.61 per square foot adjusted upward to \$3.75 per square foot for market conditions and the age of the lease. The Board further concludes that long term vacancy and collection loss is best reflected by Respondent's estimate at 10% and expenses including management are reasonable at 10.5% of effective gross income based on both Petitioner's and Respondent's estimates. Petitioner's overall rate of 9.5% is considered reasonable; however, should not include taxes since the leases are written on a triple net basis and expenses during vacancy have been considered. The reconstructed income model reflects a value of \$1,604,429.00

The Board concludes that the 2005 and 2006 actual value of the subject property should be reduced to \$1,604,429.00.

**ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2005 and 2006 actual value for the subject property of \$1,604,429.00.

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

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

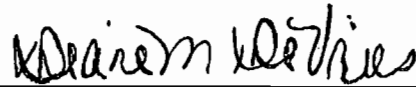
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S..

**DATED and MAILED** this 12<sup>th</sup> day of August 2010.

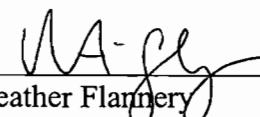
**BOARD OF ASSESSMENT APPEALS**



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Diane M. DeVries

  
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James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

  
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Heather Flannery