

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 59069

Petitioner:

BP AIRWAYS LLC ET AL,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 18, 2012, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Doug Edelstein, Esq. Petitioner is protesting the 2011 actual value of the subject property.

The parties stipulated to Petitioner's exhibits 1 and 2; to Respondent's exhibit A and to the qualifications of the expert witnesses.

Subject property is described as follows:

**2470 Airport Boulevard
Aurora, Colorado 80011
Adams County Schedule No. 1821-33-2-01-005**

The subject is a 331,923 square foot warehouse located on 733,227 square feet of land. The warehouse, constructed in 2004, is designed for distribution with 120 dock doors and 4 drive-in doors.

Petitioner presented the following indicators of value:

Market:	\$9,962,250.00
Cost:	\$Not provided
Income:	\$9,050,474.00

Petitioner is requesting an actual value of \$9,100,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$14,500,000.00 for the subject property for tax year 2011 but is recommending a reduction to \$14,340,000.00, which is the value set by the Adams County CBOE.

Petitioner's witness, Mr. Todd Stevens, presented four comparable sales ranging in sale price from \$4,100,000.00 to \$19,265,671.00 and in size from 96,842 to 357,850 square feet. After adjustments were made, the sales ranged from \$19.55 to \$38.76 per square foot of building area.

Mr. Stevens' total adjustments (adjustments in gross) ranged from 28% to 60%. 25% adjustments were applied to sale one for economic characteristics; to sale three for quality of construction and to sale four for superior location adjacent to I-70. Mr. Stevens concluded to a value of \$9,962,250.00 for the subject via the market approach.

Mr. Stevens presented an income approach to derive a value of \$9,050,474.00 for the subject property.

The property is currently 100% leased but the major tenant, Crocs, never moved in to the space. Mr. Stevens presented six comparable leases ranging from \$3.75 to \$4.23 per square foot on a triple net basis and concluded to \$3.50 for the subject. Mr. Stevens applied a vacancy rate of 15%. From the effective gross income, he applied a deduction of 3% for management fees and 15% for operating, maintenance and reserves. The net operating income was capitalized at a 9% rate which was derived from the Real Estate Survey of the Summer 2010 by Smith Burbach.

Respondent presented the following indicators of value:

Market:	\$15,300,000.00
Cost:	\$13,800,000.00
Income:	\$14,200,000.00

Respondent's witness, Gary Pettersen, a Certified General Appraiser, presented nine comparable sales ranging in sale price from \$34.22 to \$57.01 per square foot and in size from 79,480 to 300,300 square feet. No adjustments were applied and by qualitative analysis he concluded to a unit value of \$46.00 per square foot and a value of \$15,300,000.00 via the market approach.

Mr. Pettersen used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$13,800,000.00. He determined a replacement cost new and applied a 10.9% deduction for physical depreciation to derive a depreciated cost. Land value was added to the replacement cost new less depreciation to determine a value of \$13,800,000.00 by the cost approach.

Mr. Pettersen also used the income approach and derived a value of \$14,200,000.00 for the subject property. He presented ten comparable leases ranging from \$2.93 to \$6.30 per square foot on a triple net basis and concluded to \$4.00 for the subject. Additional income of \$700,357.00 was added for common area maintenance. The potential gross income was reduced by a vacancy factor of 10% and then reduced an additional 3% for operating expenses. The net operating income was

capitalized at a rate, also determined from the Burbach publication, of 9%. An additional 3.5% was added for estimated taxes. This resulted in a capitalization rate of 12.5%.

Respondent assigned an actual value of \$14,500,000.00 to the subject property for tax year 2011 but is recommending a reduction to \$14,340,000.00.

Petitioner contends that the subject is overvalued. According to Petitioner, Respondent's appraiser relied upon a qualitative analysis of the comparable sales resulting in an unsupportable opinion. The income approach relies upon information gathered prior to the base period and also projects an unrealistic estimate of expenses that resulted in too much income considered in capitalization. Petitioner also states that the appraiser incorrectly estimated depreciation due to economic conditions and, as a result, developed too aggressive a value opinion in the cost approach.

Respondent questioned Petitioner's market approach because of overly large adjustments. The income approach relied upon an overstated vacancy estimate and expenses were too low which resulted in an unjustifiably small income considered in capitalization.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2011 valuation of the subject property was incorrect.

The Board was persuaded by Petitioner's arguments regarding all three valuation approaches used by Respondent's appraiser. Mr. Pettersen's qualitative analysis was not compelling. The income approach is not reliable due to use of old data and the cost approach was flawed by reliance upon mass data for land value with no recognition of external obsolescence.

The Board was also not compelled by Respondent's conclusions. The application of unsupported adjustments for economic characteristics and location resulted in understatement of the value by the market approach. Respondent's estimates of long term vacancy and application of a 15% operating expense value to a triple net lease also resulted in an unsupportable value opinion by the income approach.

Mr. Pettersen pointed to Respondent's sale four, at \$53.84 per square foot before adjustment, as a good indicator. Both Mr. Pettersen and Mr. Stevens relied upon sales at 13250 E. Smith Road at \$57.01 per square foot and 5555 Joliet Street at \$43.95 per square foot. In consideration of the smaller size of the common sales, a unit value of \$40.00 per square foot, or, \$13,300,00.00 (rounded), is appropriate.

Both parties indicated potential income for the subject from \$3.50 to \$4.00 per square foot. At \$3.75 per square foot, a 10% vacancy and expenses of 3% for management, 2% for operation and 2% for reserves, the property would command a net operating income of \$1,402,300.00. At a 9% capitalization rate, the value indication by the income approach is \$11,600,000.00 (rounded).

Giving equal weight to both approaches, the Board finds the appropriate value to be \$12,500,000.00.

The Board concludes that the 2011 actual value of the subject property should be reduced to \$12,500,000.00.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$12,500,000.00.

The Adams 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 8th day of May, 2012.

BOARD OF ASSESSMENT APPEALS

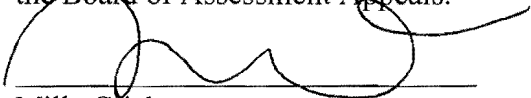


Debra A. Baumbach



Gregg Near

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



Milla Crichton

