BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **ASCENDANT CAPITAL PARTNERS CPS LLC,** v. Respondent: **DOUGLAS COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 63872**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 31, 2014, Louesa Maricle and MaryKay Kelley presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

15690 Parkerhouse Road, Parker, Colorado
Douglas County Schedule No. 2233-081-04-005

The subject is a 44,730 square foot building constructed in 2008. It is located on a 6.25 acre site north of E-470 and west of Jordan Road. As of the assessment date, spaces were leased by GSA (inspection of its 15,300 square feet was denied), Praxis (8,400 square feet), Solar City (12,600 square feet), and Fastenal (4,200 square feet).

Respondent assigned an actual value of $3,891,510 for tax year 2013 but is recommending a reduction to $3,820,000. Petitioner is requesting a value of $2,500,000.

Petitioner presented the following indicators of value:

Market:	$2,817,990
Cost	N/A
Income:	$2,200,781

Petitioner's witness, Mr. Todd Stevens, President of Stevens & Associates Cost Reduction Specialists, Inc., disclosed a contingent-fee consulting assignment. His determination of a "warehouse" was defined by 30' ceiling heights, 9.6% office space, minimal finish, and few windows other than those in front and on the ends. He argued that Douglas County's original determination was "distribution warehouse" and "warehouse/storage" per its property card. He disagreed with Respondent's determination of "flex space".

Mr. Stevens placed predominant weight on the income approach. He presented the subject's Fastenal lease (modified gross rent of $10.61 per square foot) minus common area maintenance of $4.50 plus utilities of $0.39. He also presented seven triple-net warehouse leases from the marketplace ranging from $5.50 to $7.00 per square foot. While Leases Two and Three were executed post-base period, Mr. Stevens argued that they were negotiated prior to the base period.

Mr. Stevens' vacancy rate of 20% was based on the subject's vacancy; 28% in 2011, and 19% in 2012. He also referenced vacancies reported in the Ross Report (14.15%) and by CoStar (17.7%).

Mr. Stevens based expenses of 10% on his experience in the industry and a capitalization rate of 8.9% on a Burbach survey reporting warehouse rates between 7.5% and 12%. He added the following to the capitalized value; tenant finish at $20 for 12,600 square feet, and leasing commissions of $10,000 to conclude to $2,200,781.

Mr. Stevens presented a market approach with six comparable sales selected for their similarity in size, age, and higher office percentage. They ranged in price from $2,050,000 to $6,000,000 and from $42.27 to $81.39 per square foot. After adjustments, the prices ranged from $43.96 to $68.37 per square foot. He concluded to $63.00 per square foot or $2,817,990.

Respondent presented the following indicators of value:

Market:	$3,800,000
Cost:	N/A
Income:	$3,820,000

Respondent's witness, Mr. Michael J. Fronczak, Certified General Appraiser and MAI, Appraisal Institute, classified the subject as flex industrial space per the CoStar definition that includes18-foot ceiling height, versatile use, 50% office space, high curb appeal, and less truck parking (4.5 per 1,000 parking ratio). Mr. Fronczak noted abundant windows, low ceiling heights, measured the interior at 18 feet, and noted the following descriptions; "office/flex" space per Ascendant's President and CEO, and "flex/light distribution" space per the assessor's office. Although the finished area of the GSA space was unknown, permits suggested at least 15,300 square feet was to be finished in addition to Petitioner's reported 4,026 square feet of finish. Mr. Fronczak considered it likely that 50% of the interior was office space.

Mr. Fronczak presented an income approach to derive a value of $3,820,000. He put little weight on actual leases within the subject property for the following reasons: the GSA lease was not provided; one of the subject leases was modified gross (Fastenal), the others being triple net; and copies of the three remaining leases, arriving after his report was finalized, reported lease amounts that differed from the rent rolls.

Subject Tenant	Annual Rent/Rent Roll	Annual Rent/Lease	
Solar City	$121,485	$125,160	(net)
Praxis	$ 98,868	$ 34,957	(net)
Fastenal	$ 44,558	$ 44,558	(modified gross)
GSA	$333,644	No lease	(unknown)

Due to these variances, Mr. Fronczak researched asking rents from the marketplace and selected four flex properties ranging from $7.95 to $12.50 per square foot. He considered Lease Two to be most similar, bracketed by Leases One and Three. Using qualitative adjustments, he concluded to a value of $9.00 per square foot triple net.

Vacancy was estimated at 15% based on the subject's rent roll describing the property as 90.5% leased and on a CoStar review of 38 flex industrial buildings mid-2012 in Douglas County indicating a vacancy rate of 14.5%.

Mr. Fronczak was provided total expenses for the subject building and its sister property building next door, and because he was unable to separate the two (only the subject building was appealed), he looked to the market where tenants are typically responsible for all operating expenses and owners responsible for reserves. The subject's age and condition suggested a range from 3% to 5% of effective gross income, and he concluded to stabilized expenses of 5%.

Mr. Fronczak based his capitalization rate of 8.5% on three sets of data: Sales Two and Three from the sales comparison approach reported rates of 8.60% and 8.00%, respectively; a CoStar market extraction of nine industrial and flex sales with rates between 7.50% and 9.80% concluding to a mean of 8.5% and a median of 8.4%; and an analysis of several published surveys with average rate of 8.86%.

Mr. Fronczak presented a sales comparison analysis with four comparable sales selected for similarity in size, location, and use (flex industrial). They ranged in sale price from $2,000,000 to $7,599,427and in price per square foot from $76.59 to $89.37. Sales Three ($81.52) and Four ($89.37) were given most weight in the qualitative analysis, and value was estimated at $85.00 per square foot.

The Board is persuaded by Respondent's testimony and evidence that "flex industrial" designation is appropriate. While the use and finish of GSA's 15,300 square feet is an unknown, a significant portion of the GSA space is likely to be office: the building exterior has a better curb appeal than a warehouse exterior; the site has a lower truck parking ratio (4.5 per 1,000); and the tenant obtained a $700,000 building permit, which is equivalent to approximately $45 per square foot, suggesting a high degree of finish for that space. Also, Petitioner's President and CEO considers it to be flex space, and the assessor's property card will be changed from "warehouse" to "flex space" per Respondent's witness. Petitioner's witness has not provided sufficient evidence to convince the Board that the correct classification is "warehouse" rather than "flex space".

The Board finds that the income approach is a strong indicator of value for the subject. Because the leased GSA space cannot be inspected for utility and finish and because the subject's rent rolls and leases show discrepancies, market rents are considered more reliable. The Board is convinced that "flex space" is better defended and finds Respondent's market leases to be more persuasive than those presented by Petitioner because they represent "flex" space. Petitioner's witness concludes to a rental income by a modified gross calculation for warehouse space, although CoStar reported the subject as a triple-net lease and it was marketed as triple net. Finally, Petitioner's witness was unable to provide support for Leases Two and Three having been negotiated during the base period. Respondent's rental income of $9.00 per square foot is more convincing.

The Board is persuaded that a stabilized vacancy rate for the subject, supported by Respondent's CoStar research, is 15%. Petitioner's use of 20% vacancy does not consider the vacancy for both industrial warehouse and flex space in the Parker submarket from the second quarter 2011 to the second quarter of 2012. According to evidence presented by Respondent from a second market source, the Douglas County Economic Development Division reported vacancy for flex space in Parker at 4.5% as of the second quarter 2012. The rate for the same period for industrial space in Parker was 2.9%. According to that source, vacancy rates for both types of space declined significantly from 2011 to mid-2012. Therefore, the Board concludes that Petitioner's capitalization of 20% vacancy into perpetuity is not supported by the market evidence.

The parties' capitalization rates are similar. Because Respondent's witness provided more extensive support for an 8.5% rate, the Board finds it more reliable.

The Board gives the market approach secondary weight. Petitioner's analysis is given less consideration because it includes "warehouse" rather than "flex industrial" sales.

ORDER:

The petition is granted. Respondent is ordered to reduce the 2013 value of the subject property to the value recommended by Respondent, $3,820,000.

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-nine 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-nine 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 18th day of August. 2014.

BOARD OF ASSESSMENT APPEALS

Louesa Maricle

MaryKay Kelley

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

Milla Lishchuk

STATE OF COLORADO SEAL BOARD OF ASSESSMENT

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