BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **ST PAUL PROPERTIES, INC.,** v. Respondent: **DENVER COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 67945**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 14, 2016, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to the admission of Petitioner's exhibits 1 and 2, Respondent's exhibits A and B, and to the admission of the expert witnesses.

The subject property is described as follows:

13100 E 39th Avenue
Denver, CO 80239
Denver County Schedule No. 0124400011000

The subject property consists of an industrial warehouse building containing 229,140 square feet constructed in 1973 on a 382,455 square foot (8.78 acre) site. The building contains a 19,008 square foot office, a 10,680 square foot mezzanine, 36 dock high doors, and is fully sprinklered. The exterior walls are tilt-up pre-cast concrete and there is a rail siding with loading doors. The building is located south of I-70 and east of N. Peoria Street in predominantly warehouse district.

Petitioner presented the following indicators of value:

Market:	$7,797,220
Cost:	Not Applied

Income:	$7,591,695

Petitioner is requesting an actual value of $7,600,000 for the subject property for tax year 2015. Respondent assigned a value of $8,469,500 for the subject property for tax year 2015.

Petitioner's witness, Mr. Todd Stevens of Stevens and Associates Cost Reduction Specialists, Inc., presented five comparable sales ranging in sale price from $1,900,000 to $11,000,000 and in size from 82,380 to 386,153 square feet reflecting unit values from $23.06 to $40.06 per square foot of building area. After adjustments were made, the sales ranged from $23.06 to $36.09 per square foot in unit value. Mr. Stevens reconciled to a unit value of $34.00 per square foot. Application of the unit value to a building area of 229,330 square feet produced a value by the market approach of $7,797,220.

The witness applied adjustments for time, condition of sale, location, age, economic characteristics, physical characteristics, excess land and improvement size. Sales 4 and 5, transactions during the extended base period, were adjusted upward for time. Sale 3 was adjusted downward as the transaction involved a sale and leaseback of a portion of the building to the seller. Sale 3 was considered superior in location and adjusted downward. Each sale was adjusted for age differences. Sales 2, 3 and 5 were adjusted upward to represent vacancy at the time of sale. All the sales were adjusted downward because they had heavier electrical power. Sales 1, 3 and 5 were adjusted for different land to building ratios and all the sales were adjusted for size differences.

Mr. Stevens presented an income approach to derive a value of $7,591,695 for the subject property. Information for seven lease transactions was analyzed to conclude to a rental rate of $3.10 per square foot, net of expenses. This was based on an indicated range of $2.56 to $3.75 per square foot derived from comparable rental data. A deduction of 5% was taken for vacancy. Afterwards, an additional 10% was deducted for owner's operating, maintenance. and reserve expenses. The vacancy rate was based on CoStar data for second quarter 2014 information for industrial buildings located within the subject's submarket. A capitalization rate of 8% was derived from the Summer 2014 Burbach & Associates, Inc. Real Estate Investment Survey.

Petitioner's witness declined to present a cost approach on the grounds that market sales do not currently support the cost of new construction. Considering both the market approach and the income approach, Mr. Stevens weighted the income approach most heavily on the grounds that investors typically consider the income stream to help determine the appropriate price. With greatest weight to the income approach, the witness concluded to a final value of $7,600,000 for the subject.

Respondent presented the following indicators of value:

Market:	$10,831,500
Cost:	$ 8,957,900
Income:	$ 8,277,800

Respondent's witness, Mr. Thomas Brennan, an Ad Valorem Appraiser, presented four comparable sales ranging in sale price from $5,384,000 to $19,482,950 and in size from 150,001 to

455,850 square feet, reflecting gross unit values before adjustments from $35.89 to $57.40 per square foot of building area. After adjustments were made, the sales ranged from $44.46 to $60.27 per square foot in unit value. Mr. Brennan reconciled to a median unit value of $47.27 per square foot. Application of the unit value to a building area of 229,140 square feet produced a value by the market approach (sales comparison approach) of $10,831,500.

The witness applied adjustments for time, improvement age, location, condition, wall height and land to building ratio. All sales were adjusted for improving market conditions (time), Sales 2, 3 and 4 were adjusted for age differences, Sale 3 was in poor condition and adjusted upward. Sales 1, 2 and 3 were adjusted upward for lower wall heights and Sale 3 was adjusted for a larger land to building ratio.

Mr. Brennan used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $8,957,900. To determine the land value, the witness relied upon the assigned value determined for this assessment period of $1,787,980.

To determine the contributory value of the improvements, the witness relied upon the cost service and concluded to a Total Replacement Cost New (RCN) estimate of $13,169,450 for the building and site improvements. The building improvements were depreciated by 45% and the site improvements by 70% resulting in a Replacement Cost New Less Physical Depreciation (RCNLD) of $7,169,900. Addition of the previously determined land value to the contributory value of the improvements resulted in a value opinion of $8,957,900 by the cost approach.

Mr. Brennan presented an income approach to derive a value of $8,277,800 for the subject property. Information for seven lease transactions was analyzed to conclude to a rental rate of $3.10 per square foot, net of expenses. This was based on an indicated range of $2.86 to $4.00 per square foot derived from comparable rental data. A deduction of 5% was taken for vacancy. Afterwards, an additional 8% was deducted for owner's expenses. The vacancy rate was based on CoStar data for second quarter of 2014 information for industrial buildings located within the subject's submarket. Capitalization rates were determined from a number of sources. The witness first presented fourteen base period sales matched with base period income. This information was used to develop a weighted average overall capitalization rate (OAR) of 7.3%. Secondly Mr. Brennan cited sources of "stated capitalization rates" indicating a range from 6.48% to 9.98%. The third source consisted of a summary of published capitalization rates from two different publications. The witness concluded to an OAR of 7.5%. After concluding to a Net Income figure of $620,832 and an OAR of 7.5%, the witness derived a value of $8,277,800 (rounded) by use of the income approach.

Respondent's witness gave little weight to the cost approach in the reconciliation and chose to give equal weight to the indications developed in the market (sales comparison) approach and the income approach concluding to a final value opinion of $9,554,700.

Respondent assigned an actual value of $8,469,500 to the subject property for tax year 2015.

Petitioner contends the subject's age makes the cost approach unreliable. The rental rate and vacancy estimate are very similar between the parties with the most significant disagreement revolving around the capitalization rate. Petitioner's witness provided arm's length comparable sales from the local market in contrast to Respondent's use of portfolio transactions with multiple properties in multiple states. Petitioner also contests the validity of allocated values being represented as market transactions since an allocated value may have been applied based more upon business priorities (e.g. different tax regulations in different states) than market value.

Respondent contends no weight was placed on the cost approach with the market and income approaches given equal consideration. Petitioner's comparable sales were both much smaller than the subject (Sales 1, 3 and 4) or significantly larger (Sale 5). Respondent's sales, although presenting allocated numbers, represent much more similar properties. Petitioner's witness provided no data supporting the adjustments applied in the market approach relying on experience alone, Respondent agrees with Petitioner's estimates of the appropriate rental rate and vacancy estimates but considers Petitioner's expenses to be overstated and the adopted OAR to be too conservative.

The Board agrees the cost approach provides little insight with regard to a property subject to significant depreciation. The Board found little confidence in the market approach provided by both parties. Respondent's sales varied from less than one fifth to over five times the size of the subject. The sizes of Respondent's sales varied from less than 20% to over five times the size of the subject. The only marginally similar sale - Sale 2, is more than 40% smaller. The Board does not find Respondent's use of allocated sale prices to be appropriate.

In contrast to the above, there is complete agreement between the parties regarding the appropriate rental and vacancy rates to be applied. Expenses to be deducted from collected rents were estimated at 8% by Respondent and at 10% by Petitioner. Neither party presented definitive data to support these estimates. Finally, Petitioner suggested adopting an OAR of 8% based upon a regional publication. Respondent developed this rate by first presenting fourteen transactions from the base period that were combined with base period incomes to produce a range of rates from $3.1% to 9.4%. Petitioner objected that the rates developed in this analysis could not be reconstructed and offered information from the CoStar data service beginning with Exhibit 2-6 through 2-33. In reviewing this data, the Board determined that most of these transactions were reported as owner-users. The properties were also significantly smaller (one was 1,900 square feet in size) and others were significantly older. CoStar reported only two verified capitalization rates, 7.25% and 8.75%, from that data set. In review of the remaining sources of capitalization rates as presented by both parties, there appears little support for a rate above 8% with many of the sources, particularly from those sources more locally focused, in the mid to low 7% range. Based upon the above, the Board has reconstructed the income approach with an expense ratio of 9% and an OAR of 7.75%:

Potential Gross Income @ $3.10/sf:	$710,334
Less: 5% Vacancy	($35,517)
Effective Gross Income:	$674,817
Less expenses @ 9%	$60,734
Net Operating Income:	$614,083
Capitalized @ 7.75%:	$7,923,652

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2015 valuation of the subject property was incorrect.

The Board concludes that the 2015 actual value of the subject property should be reduced to $7,923,652.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to $7,923,652.

The Jefferson 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-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 4th day of August, 2016.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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Gregg Near

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 APPEALS

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