BOARD OF ASSESSMENT APPEALS, **STATE OF COLORADO** 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **YING-HSIAO CHU,** v. Respondent: **DENVER COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 68070**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 21, 2016, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

11707-11715 E 51st Ave, Denver, Colorado
Denver County Schedule No. 0114401016000

Petitioner and Respondent stipulated to the admission of witnesses and exhibits.

The property consists of a single-tenant industrial warehouse building located in the Montbello Business District submarket of the City and County of Denver. The building contains 57,372 square feet of gross rentable area including a 1,383 square foot mezzanine and 9523 square feet of finished office area. The building was constructed in 1979 and is pre-cast masonry panel construction. Petitioner reports nine dock doors and a ceiling height of 21.91 feet. The building is fully sprinklered. The site area is 117,325 square feet or 2.69 acres resulting in a land to building ratio of 2.04:1, and the zoning is I-A (light industrial). The property is reported to be in overall average condition with minimal improvements since construction.

Petitioner is requesting an actual value of $2,000,000 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of $3,009,000; however, is deferring to the assigned value of $2,945,200 for tax year 2015.

Petitioner presented the following indicators of value:

Cost:	Not Developed
Market:	$2,180,136
Income:	$1,992,781

Petitioner's witness, Mr. Todd Stevens of Stevens and Associates Cost Reduction Specialists, Inc., presented four comparable sales ranging in sales price from $1,250,000 to $2,605,000 and in size from 30,800 to 53,250 square feet. After adjustments for condition of sale, location, age, economic characteristics, physical characteristics, excess land, and improvement size, the sales ranged from $33.69 to $43.21 on a per square foot basis. Mr. Stevens stated that based on a review of market conditions, he made no time adjustments selecting sales similar in age, size, utility and market perception. Mr. Stevens concluded to a final value of $38.00 per square foot or $2,180,136 for land and improvements.

Mr. Stevens presented an income approach to derive a value of $1,992,781 for the subject property. In determining a rental rate, six base period lease transactions were considered ranging in rental prices from $2.95 to $3.75 per square foot triple net Mr. Stevens concluded to $3.25 per square foot triple net for the subject. Vacancy and collection of 5% was then deducted based on review of data from CoStar. An additional 10% was deducted for owner's operating, maintenance and reserve expenses. A capitalization rate of 8% was derived based on the information contained in the second quarter of 2014 Burbach & Associates, Inc., Real Estate Investment Survey.

Mr. Stevens considered both the market and the income approaches to be the most appropriate valuation methods. Mr. Stevens did not consider the cost approach to be an appropriate valuation method based on the subject's age and overall condition. In concluding to a final value, most weight was placed on the income approach as most investors typically consider the income stream in determining a purchase price. Mr. Stevens concluded to a final value of $2,000,000 for the subject property.

Mr. Stevens claims that Respondent's market sales were insufficiently adjusted indicating artificially high value ranges. Sale 1 was reported as a 1031 exchange and may not have been a market sale. Sale 2 reported a renovation in 2011, and was adjusted downward 2% to account for age and condition. Sale 3 is considered the most comparable sale and after adjustments indicated a similar value to that requested by Petitioner. Petitioner's Sale 2 is Respondent's Sale 4 and was considered a paired sale. This sale sold in 2003 for $40.22 per square foot and again in 2013 for $45.01 per square foot and does not support a significantly higher appreciating market. Mr. Stevens also contends that Respondent's income analysis is overstated based on using rental rates from newer constructed properties. In addition, Respondent's capitalization rate was derived in part from using a compilation of sales within the assessor's office that could not be verified.

Respondent presented the following indicators of value:

Cost:	$3,383,900

Market:	$3,040,700
Income:	$3,008,600

Respondent's witness, Mr. Thomas S. Keys, an Ad Valorem Appraiser, testified that he developed a cost approach but gave it minimal weight in the final value conclusion due to the age of the property. Mr. Keys concluded to a land value of $645,300 and Replacement Cost New Less Depreciation (RCNLD) of $2,738,600 resulting in a total value opinion of $3,383,900.

Mr. Keys presented a market approach consisting of four comparable sales ranging in sales price from $1,879,965 to 3,700,000 and in size from 38,194 to 72,625 square feet. After adjustments for time, building size, age, wall height and land to building ratio, the sales ranged from $38.15 to $61.24 on a per square foot basis. Giving most emphasis to the median value, Mr. Keys concluded to a value of $53.00 per square foot or $3,040,700 for the subject land and improvements.

Mr. Keys presented an income approach to derive a value of 3,008,600 for the subject property. Four lease transactions were considered ranging from $4.09 to $5.87 per square foot based on triple net. After adjustments for age, wall height, and office space, the leases ranged from $4.09 to $5.05 per square foot. Mr. Keys concluded to rate of $4.50 per square foot triple net. Vacancy and collection of 5% was deducted. An additional 8% was deducted for owner's operating, maintenance and reserve expenses and a capitalization rate of 7.5% was applied. The vacancy and collection loss, expenses and the capitalization rate were derived from CoStar, confidential income and expense data and other information collected by the assessor's office.

Mr. Keys gave minimal consideration to the cost approach in the reconciliation and chose to give equal weight to the value conclusions developed in both the market and income approaches concluding to a final value opinion of $3,009,000.

Respondent claims that Petitioner's analysis understated market conditions during the base period and that sale and lease rates have been steadily increasing In addition, Petitioner's adjustments in the market approach were aggressive and two sales were located in a different market area. Further, Petitioner's lease rates represent the lower end of the market range and do not reflect market lease rates.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

After careful consideration of the testimony and exhibits presented, the Board agrees that the cost approach should be given minimal consideration based on the property's age and condition. The Board also gave less weight to the market approach. The Board was not persuaded by either party's market analysis due to the degree of required adjustments. The Board concludes that the income approach should be given primary weight in determining market value for the subject as an income producing property.

The Board finds Petitioner's range of lease rates and Respondent's lease rates for comparables 3 and 4 to be most persuasive. The Board finds that a $4.00/psf triple net rental rate is supported by the leases. The Board was not convinced by Respondent's rent comparables 1 and 2, as both are significantly newer in construction date and represent different market perceptions. Both parties agreed on a 5% vacancy and collection allowance based on data from CoStar. The Board finds that neither party presented sufficient evidence to support their expense ratios. Petitioner used a 10% expense ratio and in contrast Respondent used 8%. The Board finds Petitioner's 10% expense ratio to be more representative of the market. Petitioner's 8.0% capitalization rate was based upon regional publications. In contrast, Respondent's 7.75% rate was based on published sources, base period sales and income and capitalization rate surveys. The Board finds Petitioner's 8% capitalization rate reasonable and is well within the range of reported rates. The Board recalculates the direct capitalization model resulting in the following value:

Gross Income					
	Square footage	57,372	sf @	$4.00	$229,488
Total Gross Income					$229,488
Vacancy Factor			@	5.00%	$11,474
Effective Gross Income					$218,014
Expenses NNN psf			@	10.00%	$21,801
Net Operating Income					$196,212
Overall Rate					8.00%
Indicated Value					$2 452,653
	round				$2 455,000
	per square foot				$42.79

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to $2,455,000.

Denver County Assessor is directed to change his 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 20th day of October. 2016.

BOARD OF ASSESSMENT APPEALS

James R. Meurer

Debra A. Baumbach

Debra A. Baumbach

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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