

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

Petitioner:

HDT, LLC.,

v.

Respondent:

TELLER COUNTY BOARD OF EQUALIZATION.

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| Attorney or Party Without Attorney for the Petitioner: | Docket Number: 39221 |
| Name: | Hossein Taraghi |
| Address: | 13275 East Fremont Place, Suite 100 Englewood, Colorado 80112 |
| Phone Number: | (303) 706-0340 |
| E-mail: | |
| Attorney Reg. No.: | |

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 9, 2002, Debra A. Baumbach, Steffen A. Brown, and Karen E. Hart presiding. Petitioner was represented by Hossein Taraghi, Manager for HDT, LLC. Respondent was represented by Stephen A. Hess, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**L10 R C COMMERCIAL SUB
(Teller County Schedule No. R0000895)**

Petitioner is protesting the 2001 actual value of the subject property, a 4,000 square foot convenience store built in 1973 and located at 20421 Highway 24, Woodland Park, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property value is too high. Respondent did not properly consider a vacant land sale involving a property that is adjacent to the subject property. The subject improvements were valued as though new, and Respondent did not take into consideration that the subject property is not connected to the city sewage system, but instead has a septic tank.

Respondent:

Respondent contends that the subject property was correctly valued using consideration of the appropriate approaches to value. Income information was not provided, so the income approach was not used. The market approach was calculated but represented a higher value. The cost approach was calculated and relied upon.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Hossein Taraghi, Manager for HDT, LLC., presented an indicated value of \$356,461.00 based on the market approach to value.

2. Petitioner did not present an income or cost approach to value.

3. Mr. Taraghi testified that Respondent's Comparable Sale 2 was sold in September 14, 2000, for \$425,000.00, and he was the purchaser. This was a lesser price from the February 1999 sale and included personal property equipment. Comparable Sale 1 also included personal property. Neither comparable is on a septic system; the subject property is on a septic system.

4. Mr. Taraghi testified that 20 acres within his subdivision, that is adjacent to his property, sold for \$.50 per square foot about 1.5 years ago. He believes this sale should be considered in the valuation of his property.

5. Mr. Taraghi testified that his requested value was derived at by using the subject property assessor's value of \$652,764.00, less \$146,303.00 in personal property value, less the \$70,000.00 decrease in sales price between the two sales of Comparable Sale #2, and also deducting approximately \$100,000.00 for the subject property septic system.

6. Mr. Taraghi testified that his property was remodeled in 1997. The subject property is in good condition and was purchased for continuing operation as a convenience store.

7. Upon questioning from the Board, Mr. Taraghi testified that he purchased the subject property in 1996 for \$175,000.00 and then remodeled the store. The Respondent assigned a land value that was 80% of \$2.48 per square foot, which equates to \$1.98 per square foot. Mr. Taraghi believes a more accurate land value would be \$.50 per square foot, based on the 20-acre land sale, which was purchased for development. He has been in the convenience store/gas station business for 20 years and his \$100,000.00 septic deduction is the deduction he would take if he were purchasing a property with a septic system. A septic system prohibits some uses for a property versus a property on city water, such as the ability to install a car wash.

8. Under recross-examination, Mr. Taraghi testified that the owner of Comparable Sale 2 contacted him directly about purchasing the property; they sold the property because they were losing money. Mr. Taraghi has several stores; he purchases convenience stores and gas stations, which he then converts to convenience stores.

9. Petitioner is requesting a 2001 actual value of \$356,461.00 for the subject property.

10. Respondent's witness, Mr. Alan Jordan, a Certified General Appraiser and Teller County Assessor, presented the following indicators of value:

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|---------|--------------|
| Market: | \$701,150.00 |
| Cost: | \$652,764.00 |

11. Based on the market approach, Respondent's witness presented an indicated value of \$701,150.00 for the subject property.

12. Respondent's witness presented two comparable sales ranging in sales price from \$491,000.00 to \$536,000.00. No adjustments were made to the sales.

13. Mr. Jordan testified that he valued the land separately in the market approach, using a land residual method. He subtracted the cost approach derived improvement value from the sales prices, to obtain a separate land value and calculated a price per square foot. As there were only two sales of convenience stores in Teller County, he also researched and obtained information on ten El Paso County sales.

14. The comparable sales' building costs were calculated using Marshall & Swift cost service data. His land residual methodology resulted in a land value range of \$1.60 to \$7.00 per square foot, using both Teller and El Paso County sales. He did not feel that the El Paso County sales were comparable.

15. Mr. Jordan testified that he next looked at commercial vacant land sales that occurred in Woodland Park. He located four sales that ranged in sales price from \$2.22 to \$2.73 per square foot. He decided to use the vacant land sales' derived values as they formed a tight range and were located in Woodland Park, the subject property area. He estimated that approximately 20% of the subject property is not useable due to steep terrain. He arrived at a full market value of \$2.48 per square foot, and then deducted 20% due to the non-useable area. Comparable Land Sale #1, Tamarac R&D, also has some land area that is not utilized. The remaining three land sales can be fully utilized.

16. Regarding Petitioner's \$.50 per square foot land sale, Mr. Jordan testified that the property is zoned R-1 and cannot be utilized as commercial property. It does not have Highway 24 frontage, unlike the subject property. It would be difficult to utilize for commercial purposes.

17. Mr. Jordan then extracted an improvement value from the two Teller County sales. He subtracted his assigned land value and obtained a building residual value, which he divided by the building square footage, resulting in a building square footage value of \$287.37 and \$290.47. He calculated a building residual value for the El Paso County sales using the same methodology, resulting in a building value per square foot range of \$56.01 to \$560.51. This was a wide value range, but he chose to calculate a mean value for his consideration, as he felt they might better reflect the competition factor. He chose \$200.00 per square foot for the subject property improvement value. He then deducted a personal property allowance of \$180,000.00. The indicated value via his market approach methodology was \$701,250.00.

18. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$652,764.00.

19. Mr. Jordan testified that he used the Marshal & Swift Cost Service to achieve an improvement value of \$139.10 per square foot. Using the subject building's 4,000 square foot size resulted in an improvement value of \$556,401.00, which included canopies, asphalt, concrete, et cetera.

20. Mr. Jordan testified that the subject property has excess land. He derived a land value of \$2.50 per square foot for the primary area of the subject property of 32,944 square feet, and a value of \$1.75 per square foot for the excess land area of 8,002 square feet, based on a usual land-to-building ratio of 2:1. The resulting blended land value was \$2.35 per square foot, or \$96,363.00.

21. Respondent's witness did not present an income approach to value, due to the lack of access to the subject property's actual income data.

22. Mr. Jordan testified that he chose to rely upon the cost approach value conclusion, as he was not comfortable with the inclusion of El Paso County sales in the market approach. He chose a conservative value by using the lowest value conclusion: the cost approach.

23. In cross-examination, Mr. Jordan testified that he did not consider other sales in the subject property subdivision, as none were included in his sales file. Petitioner's land sale property would need a variance to be used for a future commercial use. The second sale of the Comparable Sale #2 property occurred subsequent to the level of value date of June 30, 2000, and therefore cannot be considered. The subject property store was originally built in 1973 and remodeled in 1997, but no structural changes were made.

24. Upon questioning from the Board, Mr. Jordan admitted that he had omitted the cost calculation pro-forma from his report in error, but that both the cost pro-forma and the adjusted year built documentation were available. He did not use a standard market adjustment grid, as he knew he was not going to rely on the market approach. He obtained a 5% return rate on his mailed income questionnaires; therefore, he could not use market income data to value the subject property via the income approach. Petitioner did not submit the subject property actual operating statements. Mr. Jordan ultimately used a land value derived from all commercial land sales located in Woodland Park.

25. In recross-examination, Mr. Jordan testified that the subject property economic life is 40 years. He used a 1990 adjusted year built, due to a 70% remodel in 1997. He applied 2.5 % depreciation per year from 1990 to 2000.

26. Respondent assigned an actual value of \$652,764.00 to the subject property for tax year 2001.

27. Upon request of the Board and Petitioner, Mr. Jordan agreed to submit to the Board the omitted subject property improvement cost pro-forma and the adjusted year built documentation via Respondent's attorney, Mr. Stephen Hess on Friday, January 11, 2002. He also agreed to exchange these documents with the Petitioner. The Board indicated that once these documents were received, both parties might be contacted at some point in the future if further information or hearings were deemed necessary.

28. Respondent's attorney, Mr. Stephen Hess appeared before the Board for a subsequent docket hearing on Friday, January 11, 2002. Prior to the hearing, Mr. Hess reported to the Board that he had not received the documentation from Mr. Jordan that was to be given to the Board that day.

29. Prior to the start of the January 11, 2002 hearing, Ms. Sylvia Goff, Chief Appraiser with the Teller County Assessor's Office mentioned in casual conversation that: "Mr. Jordan was still working" on the requested documents.

30. As of January 22, 2002, the Board had still not received the requested information.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001.

2. Respondent's witness, Mr. Jordan, testified that the improvement cost pro-forma and adjusted year calculations were available but omitted from his report. He agreed to submit to the Board these omitted documents via Respondent's attorney, Mr. Stephen Hess on Friday, January 11, 2002. As of January 22, 2002, eleven calendar days after the hearing, the Board had not received the documents. If the documents were readily available as testified to, they should have been deliverable on the date agreed. It is apparent to the Board that the documents were either not prepared or did not reflect the facts as testified to in the hearing.

3. The Board had allowed Mr. Jordan to submit the documents post hearing as he had relied upon the cost approach to establish the subject property value and without these documents, the Board would be able to place little weight on this approach. As a result of Mr. Jordan's failure to submit these documents in a timely manner, the Board has determined it cannot give any weight to the cost approach, and finds Mr. Jordan's testimony regarding this approach to be unconvincing and not credible.

4. Neither party presented an income approach, so the Board is left with determining a value for the subject property by the sales comparison approach.

5. Petitioner's requested value was based on purported deductions that were not accompanied by supporting documentation. The Board was convinced that the subject property's lack of city sewer services would limit some use of the subject; however, Petitioner's suggested value reduction was not supported.

6. The Board was not convinced that Petitioner's land sale at \$.50 per square foot was comparable to the subject. Respondent's witness testified that this sale was not zoned commercial and did not have direct access to Highway 24. The Board also considered testimony indicating that the sale property was somewhat irregular in shape and had some unusable space. The Board, therefore, relied upon Respondent's land value conclusion of \$81,250.00 as concluded in Mr. Jordan's market approach analysis.

7. The Board reviewed all of Respondent's presented sales information. All sales of buildings with less than 1,000 square feet and selling prices of less than \$300,000.00 were removed from the analysis. The remaining sales were arrayed in building size order, with a resulting value range of \$122.54 to \$287.37 per square foot. There was a clear indication of diminishing returns, wherein the larger the sale property's building square footage, the lower the sales price per square foot of improvement. The Board found it likely that all the comparable sales could be on city sewer services and noted that the largest of the comparable sales was still much smaller in square footage than the subject property. The Board therefore concluded that a value near the lower end of the range would be appropriate and chose a sale's price per square foot of \$140.00 for the subject improvement's building size of 4,000 square feet. The resulting value of \$560,000.00 was then added to the Respondent's indicated land value of \$81,250.00, and a deduction of \$180,000.00 for personal property was taken.

8. The Board concluded that the 2001 actual value of the subject property should be reduced to \$461,250.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$461,250.00.

The Teller County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 28 day of February, 2002.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Steffen A. Brown
Steffen A. Brown

Karen E. Hart
Karen E. Hart

This decision was put on the record

FEB 20 2002

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

Diane Von Dollen
Diane Von Dollen

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