

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GORDON D. JACKSON,</p> <p>v.</p> <p>Respondent:</p> <p>TELLER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Gordon D. Jackson Address: P.O. Box 220 Woodland Park, Colorado 80866 Phone Number: (719) 687-9351</p>	<p>Docket Number: 40427</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 8, 2002, Rebecca A. Hawkins and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Stephen A. Hess, Attorney for Teller County.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**213 Aspen Garden Way, Woodland Park
(Teller County Schedule No. R0000139)**

Petitioner is protesting the 2002 actual value of the subject property. The property is 1.56 acres, has an industrial/commercial use, and contains multiple buildings with a total of 15,512 square feet.

ISSUES:

Petitioner:

Petitioner contends that Teller County made a mistake in the valuation of the subject property, resulting in overvaluation.

Respondent:

Respondent contends that the subject property has been properly valued using all three approaches to value.

FINDINGS OF FACT:

1. Petitioner's witness, Stephen D. Hart, CPA, presented an income approach to derive a value of \$251,279.00.

2. The Board accepted Petitioner's Exhibit C for factual data only. After further testimony, the Board discovered the square footage used in this exhibit was incorrect.

3. Mr. Hart testified he predicated the value by the income approach on 488 square feet more than actually exists. Upon questioning from the Board, Mr. Hart explained one building was incorrectly determined to be 3,744 square feet when it should have been 3,256 square feet.

4. Mr. Hart testified there are a total of three buildings with two rental units in one building. One of the buildings is not leased but used by the Petitioner as a maintenance facility for Aspen Valley Ranch, and a work facility for other rental properties.

5. Mr. Hart testified to leases at \$4.34 and \$5.17 per square foot and that no income was derived from the portion of the building used by the Petitioner.

6. Mr. Hart testified the income approach should be used to estimate value on the subject property. He testified to using current lease rates for the occupied space and \$.50 per square foot for the area the Petitioner uses for personal use. He used a 5% vacancy rate, 20% expense ratio, a net operating income (NOI) of \$21,128.00 and a 10% capitalization rate. These figures indicate a value by the income approach at \$251,279.00.

7. Under cross-examination, Mr. Hart attributed 9,740 square feet as the area used by the Petitioner. Mr. Hart testified he did not conduct independent research to support the lease rate of \$.50 per square foot and did not know what the space would lease for if offered on the open market. He stated the space used by the Petitioner does not have plumbing or heating but is otherwise similar to the leased space.

8. Under cross-examination, Mr. Hart testified to talking with a banker and the Teller County Assessor to determine the components used to build the capitalization rate.

9. Petitioner did not present any value opinion for the market approach or cost approach.

10. Petitioner argued that Respondent used improper methodology in the income approach by adding in the value of the land. However, it was not presented to the Board in this manner, at this hearing.

11. Petitioner is requesting a 2002 actual value of \$251,279.00 for the subject property.

12. Respondent's witness, Ms. Cathy Brennan, a Certified General Appraiser with the Teller County Assessor's Office, presented the following indicators of value:

Market:	\$482,335.00 to \$681,837.00
Cost:	\$663,228.00
Income:	\$552,344.00

13. Based on the market approach, Respondent's witness presented an indicated value range of \$482,335.00 to \$681,837.00 for the subject property.

14. Respondent's witness presented three comparable sales ranging in sales price from \$185,000.00 to \$480,000.00 and in size from 1999 to 7160 square feet. After adjustments were made, the sales ranged from \$482,335.00 to \$681,837.00.

15. Ms. Brennen testified the market approach was considered but she did not rely on this approach as she was not comfortable with the data. Due to the unique aspects of the subject property, no similar sales were available. Sales not similar to the subject from the immediate neighborhood were used; however, the adjustments were too large. Ms. Brennen testified the sales were adequate if the only objective were to stay in this economic area.

16. Ms. Brennen used a state-approved cost estimating service to derive a market-adjusted cost approach value for the subject property of \$663,228.00.

17. Ms. Brennen testified she accounted for the age, quality and condition of the subject property using the Marshall and Swift Cost Estimating Service and that the subject is a special use property due to its size.

18. Ms. Brennen used the income approach to derive a value of \$552,344.00 for the subject property.

19. Ms. Brennen testified the value by the income approach was typically a better indicator of value. Few comparable properties were available; therefore, she used actual rents for all rentable areas.

20. The witness testified all buildings had similar attributes and the \$.50 applied to the square footage used by the Petitioner is a gross under statement of market rent.

21. Ms. Brennen testified to using 5% for expenses. This was determined from information supplied by the Petitioner, as well as expenses from other property owners during the base period.

22. Respondent assigned an actual value of \$393,392.00 to the subject property for tax year 2002.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2002.

2. The Respondent's witness presented a well-documented and organized appraisal report, which supported the assigned value.

3. The Respondent's witness weighted all three approaches to value. The Board agrees that the subject property is a special use property in Teller County due to the land size and square footage of the buildings.

4. The Board was convinced that the property should be valued using market rates.

5. The Board was convinced of the similarity of Petitioner's available rental spaces within each building except for the lack of water and heat in the space used by the owner. However, the Board was convinced that any impact on the rental rates indicated by the market for spaces lacking water and heat would still result in an indicated value higher than the value assigned by the Respondent.

6. The Board understands Petitioner uses 9,740 square feet for personal use; however, according to Colorado Revised Statutes, potential market income must be used to value commercial properties according to the income approach, regardless of whether the space is owner occupied.

7. After careful consideration of all the presented testimony and evidence, the Board affirms Respondent's 2002 assigned actual value of \$393,392.00. The Board notes that the assigned value is much less than the indicated value of the subject property via any of Respondent's approaches to value.

ORDER:

The petition is denied.

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 19th day of December, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Rebecca Hawkins

Rebecca A. Hawkins

This decision was put on the record

DEC 19 2002

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

Penny S. Lowenthal
Penny S. Lowenthal

