

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>KARIN S. ADAMS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>CHAFFEE COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Karin S. Adams Address: 245 East Highway 50 Salida, Colorado 81201 Phone Number: (719) 539-4838</p>	<p><b>Docket Number: 40497</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 4, 2003, Karen E. Hart and Rebecca A. Hawkins presiding. Petitioner appeared pro se. Respondent was represented by Jennifer Davis, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**245 E. Highway 50, Salida, Colorado  
(Chaffee County Schedule No. R380705300109)**

Petitioner is protesting the 2002 actual value of the subject property, a 2,571 square foot structure over a partial basement on 2.62 acres. The structure was originally built in 1954 as a single-family residence that has been converted to a real estate office. The site is irregular in shape with approximately 190 feet of front footage on Highway 50. The front portion of the site is level with approximately 56,628 square feet or 1.3 acres. The remainder, approximately 57,644 square feet or 1.3 acres, slopes toward a

river that borders the property along the rear property line. This rear portion is located in a flood zone.

**ISSUES:**

**Petitioner:**

Petitioner contends that the subject property is overvalued due to the physical restrictions of the site. Under the current use of the property, it has surplus land with no improvement value. The improvement is old and dated with functional and physical problems.

**Respondent:**

Respondent contends that the subject property has been correctly valued based on comparable market data.

**FINDINGS OF FACT:**

1. Petitioner, Ms. Karin Adams, presented the appeal on her own behalf.
2. Petitioner's witness, Mr. Mel Keserich, SRA, a Certified General Appraiser, presented the following indicators of value:

Market:	\$296,000.00
Cost:	\$290,000.00
Income:	\$250,000.00

3. Based on the market approach, Petitioner's witness presented an indicated value of \$296,000.00 for the subject property.

4. Petitioner's witness presented three comparable sales ranging in sales price from \$250,000.00 to \$400,000.00 and in size from 3,067 to 5,945 square feet (\$42.05 to \$83.14 per square foot). After adjustments were made, the sales ranged from \$55.30 to \$106.84 per square foot.

5. Mr. Keserich testified that the building is an older structure that was originally built as a single-family residence. It is currently used as a real estate office for at least twelve agents. The interior of the building is dated with some functional problems such as only one bathroom and problems with some windows not closing. The basement is approximately 350 square feet and is used for storage. The basement is not heated or finished. Ample parking is at the rear of the building. This parking area has numerous potholes and is in fair condition.

6. Mr. Keserich testified that the front of the site is zoned commercial; the rear is zoned agricultural. He testified to problems with the subject site such as physical restrictions, access to the rear of the site and zoning. He considered the rear one-third of the site wetlands and thought the driveway was too narrow; it is only wide enough for one-way traffic. Mr. Keserich testified to considering the rear portion surplus land. It backs to a river, is intersected by an irrigation ditch and is in a flood zone.

7. Mr. Keserich testified that incurable functional obsolescence is present due to the under improvement of the structure on a large site. This results in surplus land of approximately 81,022 square feet. Mr. Keserich assigned 28,000 square feet as usable land under the structure, leaving 28,000 square feet as excess land.

8. Mr. Keserich testified that Sale No. 1 has adequate parking and 15,000 square feet of land. It is superior in age and condition; but inferior in site location, lacking highway frontage. Sale No. 2 does not have adequate parking, but does have 85,000 square feet of land. This sale is similar to the subject property in location, age and condition. Sale No. 3 has good parking and 33,000 square feet of land. It is inferior to the subject in age and condition.

9. Mr. Keserich testified to an adjusted range of \$55.30 to \$106.84 per square foot, choosing \$110,000.00 for the subject property. Excluding excess land, the value via the sales comparison approach is \$282,920.00; including excess land it is \$296,000.00 rounded.

10. Petitioner's witness used the cost approach to derive a value for the subject property of \$290,000.00.

11. Mr. Keserich testified that the first step in the cost approach is determining a land value. Due to sufficient sales data, a sales comparison approach was used to value the land. Six vacant land sales were included ranging from \$2.76 to \$6.01 per square foot. Sale No. 1 is a corner location, but needs city water and sewer. Sale No. 2 was purchased in two parts: the buyer paid \$4.39 for the front portion, the rear portion was purchased for \$1.21 per square foot. Sale No. 3 is the largest site at 5.19 acres and was purchased for a car wash. Sale No. 4 is at the low end of the value range at \$2.06 per square foot. Sale No. 5 is the smallest site at 37,462 square feet. It was purchased for a Burger King and needs city water and sewer. Sale No. 6 is a corner location next to WalMart. It was purchased for a Checker Auto Parts store.

12. Mr. Keserich testified that he valued the subject site in two parts: the front portion used as commercial and the rear portion in the flood zone as excess land. The front portion borders the highway and is 56,628 square feet or 1.32 acres. He felt this portion was bracketed by land sales No. 2 and No. 4, from \$3.07 to \$4.69 per square foot. He testified to a value of \$4.00 for the front portion since it borders the highway. Mr. Keserich testified based on sales data, the remaining excess land of 1.3 acres or 57,499 square feet should be allotted less value than the front portion of the site. He valued this

portion of land at \$10,000.00 per acre (\$.23 per square foot) for a total land value of \$240,000.00 rounded.

13. Mr. Keserich testified to using actual costs for similar office buildings crosschecked with a cost service, to obtain the cost figures for the structure. Physical incurable depreciation was calculated on a straight-line basis. Mr. Keserich used an effective age of 15 years and a total economic life of 55 years. Mr. Keserich testified to an incurable functional obsolescence in the form of surplus land, since the land is under-utilized due to a small improvement used as a real estate office. The surplus land was subtracted from the estimated value of the improvement. Mr. Keserich testified to a value by the cost approach of \$290,000.00.

14. Mr. Keserich presented an income approach to derive a value of \$250,000.00 for the subject property.

15. Petitioner's witness presented five rental comparables along Highway 50. They range in size from 1,200 to 4,183 square feet and in rent from \$5.62 to \$9.20 per square foot. Mr. Keserich testified that the owner occupies the subject property so he used the actual rent of \$7.00 per square foot for the rental analysis.

16. Regarding the income approach, Mr. Keserich testified to using a 2% vacancy rate and fixed expenses of taxes and management. He used the mortgage equity technique to obtain the capitalization rate of .099695. Mr. Keserich testified that he applied this capitalization rate to the net operating income to determine a value indicated by the income approach, excluding excess and surplus land, of \$123,000.00 rounded. Including excess land of \$13,200.00 and surplus land of \$113,256.00, the total value via the income approach is \$250,000.00 rounded.

17. Petitioner is requesting a 2002 actual value of \$275,000.00 for the subject property.

18. Respondent's witness, Mr. Richard Roberts, a Licensed Appraiser with the Chaffee County Assessor's Office, presented the following indicators of value:

Market:	\$462,900.00
Cost:	\$499,500.00
Income:	\$300,000.00

19. Based on the market approach, Respondent's witness presented an indicated value of \$462,900.00 for the subject property.

20. Mr. Roberts testified to a scarcity of commercial sales in the county. As a result, sales along Highway 50, as well as sales in downtown Salida and downtown Buena Vista were used. Mr. Roberts presented five comparables ranging in price from \$117,000.00 to \$400,000.00, and in size from 1,100 to 4,949 square feet, or \$96.10 to

\$162.98 per square foot. After adjustments were made, the sales ranged from \$121.88 to \$204.98 per square foot.

21. Mr. Roberts testified that the sales are for offices in good condition in relatively busy business areas. All adjustments were based on market studies of sales over the last five years. All sales were given a time adjustment based on a time trending analysis. Sales No. 1 and No. 2 are in Buena Vista approximately 25 miles away. Sale No. 1 has a downtown location and is smaller in square footage and site size, with very little parking. Sale No. 2 has a highway location, is similar in square footage, and is smaller in site size, with very little parking. Sale No. 3 is in downtown Salida, and is substantially smaller in square footage and site size, with no on-site parking. Sale No. 4 is on Highway 50 similar to the subject. It is larger in square footage, has the largest site of all the comparables and is most similar in on-site parking. Sale No. 5 is located on Highway 24 in Buena Vista approximately 24 miles away. It is smaller in site size and substantially smaller in square footage. It is newer in age and superior in condition, with very little parking.

22. Mr. Roberts testified the value of the subject property via the sales comparison approach was determined by using the median value of all five comparable sales. This median value per square foot of \$157.69 indicates a value by the sales comparison approach of \$381,904.00 excluding excess land, and \$462,900.00 including excess land.

23. Mr. Roberts testified to using a state-approved cost estimating service to derive a value for the subject property of \$499,500.00.

24. Mr. Roberts obtained an effective age from the assessor's records. However, he tempered this due to improvements made to the structure over the years to bring the property to a much younger effective age. Mr. Roberts applied a total of 20% to reflect physical, functional and external obsolescence.

25. Mr. Roberts testified to valuing the land in two parts: 33,250 square feet of the site at \$7.30 for a value of \$242,725.00, plus 81,022 square feet of excess land at \$1.00 per square foot. The total land value of \$323,747.00 was added to the depreciated value of the improvements. The total value indicated by the cost approach is \$499,500.00 rounded, including excess land.

26. Respondent's witness used the income approach to derive a value of \$300,000.00 for the subject property.

27. Mr. Roberts testified that rents along the Highway 50 corridor were higher than in the downtown district. He used three rental comparables within a 12-block radius of the subject property. The rentals ranged in size from 1,236 to 4,949 square feet with rents ranging from \$6.63 to \$12.12 per square foot. After adjustments for location, quality, parking, size and lease type, the rents ranged from \$9.13 to \$14.12 per square foot.

28. Mr. Roberts testified that a market rental rate of \$11.67 per square foot is more reflective of the current market than the actual rent of \$7.00. Mr. Roberts testified to using a 2% vacancy rate and fixed expenses of taxes, insurance and maintenance.

29. Mr. Roberts testified to a range of capitalization rates from 9.5% to 11.0% as established from Integra Realty Resources for the winter of 2000. He testified to using the lower end of this range since the property is owner-occupied. Applying the capitalization rate of 9.5% to the net operating income, the value indicated by the income approach is \$175,000.00 rounded, excluding excess land. Including excess land, the value by the income approach is \$300,000.00.

30. Respondent's witness, Mr. Dean Russell, a vacant land appraiser, testified to a value range of \$2.12 to \$9.95 per square foot for larger parcels of land with unusable areas. He testified to an overall land value for the subject site, of \$2.12 per square foot that includes a consideration for the unusable portion.

31. Respondent assigned an actual value of \$462,926.00 to the subject property for tax year 2002.

## **CONCLUSIONS:**

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2002 valuation of the subject property was incorrect.

2. Regarding the cost approach, Petitioner's witness presented six land sales without including addresses. Respondent's witness presented three land sales within one-half mile of the subject property. After reviewing all the presented sales, the Board was most persuaded by the adjustments made by Mr. Roberts and determined the value per square foot of the usable portion of the site, 33,250 square feet, to be \$7.00 per square foot or \$232,750.00.

3. The Board carefully reviewed all evidence presented regarding excess land. Excess land is the land not needed to support the existing improvement. Both Petitioner's and Respondent's witnesses addressed the value of the excess land and the Board agrees the excess land should be valued. The Board was most persuaded by Respondent's conclusion of \$1.00 per square foot for excess land. The Board was also most convinced by Respondent's division of the site: usable land of 33,250 square feet and excess land of 81,022 square feet. The Board concurred with the value determined by Respondent's witness for excess land at \$81,022.00.

4. The Board gave the most weight to the improvement cost figures used by Respondent's witness. Based on testimony, the Board was not convinced that Mr. Roberts' 10% adjustment for physical deterioration adequately reflected the condition of the property or that his 5% adjustment adequately reflected the functional problems. However, the Board is convinced the cost approach should not be given much weight in

the final analysis because of the difficulty in estimating all forms of depreciation due to the age of the improvements.

5. Regarding the income approach, the Board carefully reviewed the rental comparables provided by both appraisers and was most convinced by data presented by Petitioner's witness. The Board believes the rental comparables used by Respondent's witness were not as similar to the subject in square footage or condition. The Board concluded a market rent of \$9.00 per square foot was appropriate to use. The Board accepts the 2% vacancy and collection loss used by both appraisers. The Board reviewed both income and expense statements and found conflicting data. A lack of significant information exists for the Board to determine what historic expenses were. The Board examined all testimony and evidence regarding capitalization rates and determined that a capitalization rate of 9.5% was appropriate. The Board concluded that the subject property value via the income approach would be \$232,000.00 rounded. This concluded value supports the conclusion that the subject building is an under-improvement to the land. The land value in the cost approach was similar to the total value conclusion of the income approach. Therefore, this approach was given little weight by the Board.

6. Regarding the sales comparison approach, Petitioner's witness presented three comparable sales without addresses. No information on site size or parking was included and there were no adjustments for characteristic differences, only a qualitative analysis was submitted. The Respondent's witness presented five comparable sales located in Salida and Buena Vista. These sales were adjusted for time, differences in physical characteristics and land size. The range of adjusted price per square foot is \$121.88 to \$204.98. Respondent's witness determined the median value of \$157.68 should be used. Even though the Board was most persuaded by Respondent's sales comparison approach, the Board gave little weight to reconciling at the median price per square foot. The Board believes comparable sales No. 1, No. 2 and No. 5 should be given less weight due to the Buena Vista location. Comparable sales No. 3 and No. 4 are closest to the subject in location and similar in condition. Of these two sales, comparable No. 4 is the most compelling; therefore the Board believes a supportable price per square foot for the improvement is \$122.00. The Board concluded the value by the sales comparison approach should be \$376,500.00, including excess land.

7. The Board concluded that most weight should be given the sales comparison approach and that the 2002 actual value of the subject property should be reduced to \$375,000.00.

### **ORDER:**

Respondent is ordered to reduce the 2002 actual value of the subject property to \$375,000.00.

The Chaffee County Assessor is directed to change her 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 21<sup>st</sup> day of April, 2003.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca A. Hawkins

*Karen E Hart*

Karen E. Hart

This decision was put on the record

**APR 23 2003**

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

