

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TERRY KEMP,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq. Address: 3962 S. Olive Street Denver, Colorado 80237 Phone Number: (303) 759-0087 Attorney Reg. No.: 6941</p>	<p>Docket Number: 40980</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 4, 2003, Karen E. Hart and Steffen A. Brown presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Martin E. McKinney, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**10000 Ralston Road, Arvada, Colorado
(Jefferson County Schedule No. 019208)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 1999 and 2000. The subject property consists of a 26-lane bowling alley, built in 1966 of brick and cinderblock construction with approximately 22,531 square feet, located at the intersection of Ralston Road and Allendale Drive, in Arvada, Colorado.

ISSUES:

Petitioner:

Petitioner contends there are three basic differences that lead to a lower value conclusion:

- a. Comparable sales and land values.
- b. Land-to-building ratio of the comparables.
- c. Economic obsolescence in the cost approach.

Respondent:

Respondent contends that subject has been properly valued.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Ronald C. Sandstrom, presented the following indicators of value:

Market:	\$407,000.00
Cost:	\$454,000.00
Income:	\$408,000.00

2. Based on the market approach, Petitioner's witness presented an indicated value of \$407,000.00 for the subject property.

3. Petitioner's witness presented four comparable sales ranging in sales price from \$350,000.00 to \$625,000.00, and in size from 21,744 to 22,840 square feet. After adjustments were made, the sales ranged from \$359,300.00 to \$400,000.00.

4. Referring to Petitioner's Exhibit B, Mr. Sandstrom described the interior layout of the building. The interior is not on one level. Upon entering the building there are three steps down to the lounge and rental area. The bowling area is over an unfinished concrete floor. Parking is located at the rear of the building.

5. Mr. Sandstrom testified that the four comparable sales were all independent bowling houses. The year of construction was the same or within three to four years of the subject's date of construction, and all have 24 lanes. Land adjustments were calculated using the Assessor's model for land value per square foot at the time of sale. Comparable Sale 2 was adjusted for quality since it

was steel constructed. Comparable Sale 3 at 2045 Sheridan Boulevard has a much higher land value than the subject. Comparable Sale 4 was adjusted for excess land due to the land-to-building ratio. Mr. Sandstrom further testified that all sales had flat topography and were rectangular in shape, whereas the subject building, as shown in Petitioner's Exhibit A, Page 8, is partially located on a hillside. The taking by the City of Arvada for Ralston Parkway on the southwest portion of the subject property eliminated some of the parking area.

6. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$454,000.00.

7. Mr. Sandstrom testified that he agrees with the Respondent's land value of \$2.85 per square foot for the subject property. He used the Marshall and Swift cost service to calculate a Reproduction Cost New of \$748,780.00. The subject is 38 years old. Mr. Sandstrom estimated the effective age to be 24 years due to the air conditioning and carpeting being replaced and the interior being re-painted. Based on a total life of 35 years, also taken from Marshall and Swift, he calculated a 52% depreciation factor, for a depreciated value of the improvements of \$359,414.00.

8. External obsolescence was based on membership data from the American Bowling Congress shown in Petitioner's Exhibit A, Page 5, which indicates a steady decline in bowlers both in the Denver market, as well as nationally. The estimated decline was approximately 53%. Petitioner's witness also testified that there has been a decline in the number of bowling alleys in the Denver metro area from 49 to the current number of 29. Mr. Sandstrom calculated economic obsolescence from sales by using the replacement cost new less depreciation versus the selling price.

9. Petitioner's witness presented an income approach to derive a value of \$408,000.00 for the subject property.

10. Mr. Sandstrom presented information on five leases as shown in Petitioner's Exhibit A, Page 14. He testified that all five were bowling alleys and described them as having 24 lanes each. Rentals 1, 2, 4 and 5 were triple net leases. He used \$2.00 per square foot for the lease amount, 5% vacancy and collection loss, 5% expense to lessor and a 10% capitalization rate for a value of \$408,170.00.

11. Mr. Sandstrom testified that Respondent's Comparable Sale 2 at 5496 Federal Boulevard was all but boarded up, but he did not know when operations ceased. Comparable Sale 3 is block construction, all on one floor and used as a discount store. Since it was built as a skating rink, Sale 3 is not comparable since it would need major modifications.

12. Under cross-examination, Mr. Sandstrom admitted he did not look up independent land sales. He testified no time adjustment was made since the market was stable based on the data showing the decline of bowling. Regarding Petitioner's Comparable Sale 4, (Respondent's Comparable Sale 1) the contract was prior to May 30, 1998 and the owner felt he had paid too much for the property. The capitalization rate of 10% is similar to that which Jefferson County uses for commercial property.

13. Petitioner is requesting a 1999 and 2000 actual value of \$408,000.00 for the subject property.

14. Respondent's witness, Ms. Brenda L. Fearn, a Certified General Appraiser with the Jefferson County Assessor's Office, presented the following indicators of value:

Market:	\$585,800.00
Cost:	\$639,240.00
Income:	Not Considered

15. Based on the market approach, Respondent's witness presented an indicated value of \$585,800.00 for the subject property.

16. Respondent's witness presented three comparable sales ranging in sales price from \$470,000.00 to \$875,000.00 and a gross building size from 11,600 to 29,847 square feet. After adjustments were made, the sales ranged from \$470,069.00 to \$875,114.00, or \$20.76 to \$44.40 per square foot.

17. Ms. Fearn testified that there were not a lot of bowling alleys sold, and therefore, she looked at specific use properties. Ms. Fearn described the three sales, testifying Comparable Sale 1 closed outside the base period, but she verified with the listing agent that it was under contract prior to June 30, 1998. Comparable Sale 2 was not an ideal sale, but it was a bowling alley. Comparable Sale 3 (Roller City) was not an ideal sale, but it is a comparable building that gives an indication of value.

18. Ms. Fearn testified there was not enough data to support a time adjustment, but going back five years without an adjustment, as the Petitioner did, would not be appropriate. As to economic obsolescence, Ms. Fearn testified that the market tells you what the obsolescence is and she does not agree with Petitioner's estimate of economic obsolescence.

19. As to Petitioner's comparable sales, Ms. Fearn testified Comparable Sale 1 is an old sale, occurring in 1994, and needs to be adjusted for the small land-to-building ratio. Comparable Sale 2 is an older sale, occurring in 1996. Comparable Sale 3 was a partial interest and an old sale. Comparable Sale 4 was the most appropriate, but the land-to-building adjustment is not supported. As to the Income Approach in Petitioner's Exhibit A, page 14, Ms. Fearn testified leases often include riders, and data on rents need to be current.

20. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$639,240.00.

21. Ms. Fearn testified to using a land value of \$2.85 per square foot, determined from verified sales that occurred within the statutory time frame in Jefferson County, found on page 20 of Respondent's Exhibit 1. Depreciation of 49% to 50% was used considering its age and economic

life. A 10% economic factor was additional depreciation, although she did not believe it sufficiently addressed the bowling alley, but she did not have matched pairs to make any additional adjustment and she could not extract it from the market. She arrived at a total improvement value of \$365,000.00, for a total property value of \$639,240.00 including land, or \$28.37 per square foot.

22. Ms. Fearn testified that the Income Approach was not considered for the subject property since sufficient income and expense information was not available for bowling alley properties.

23. Under cross-examination Ms. Fearn admitted using a 40 to 45 year life for the subject as it was a Grade A (average) construction. She was not sure where the 10% economic obsolescence she used in her report came from. Ms. Fearn testified that her Comparable Sale 1 (Petitioner's Comparable 4) was the most comparable and that her Comparable Sale 3 was not listed on the open market.

24. Respondent recommended that the actual value of the subject property be reduced to \$585,800.00 for tax years 1999 and 2000.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property was incorrect for tax years 1999 and 2000.

2. The Board reviewed both Respondent's and Petitioner's comparable sales and finds Petitioner's comparables to be more appropriate since they are all bowling alleys, similar to the subject. The Board agrees with Respondent that two of the four sales used by the Petitioner are over four years old; however, Petitioner presented supportable data from the American Bowling Congress that convinced the Board that the market was stable and possibly declining. The Board noted that Respondent's witness, through testimony, agreed, saying there was not enough data to support a time adjustment.

3. Both Petitioner and Respondent presented a Cost Approach and the Board agrees with both that a land value of \$2.85 per square foot is appropriate. As to economic obsolescence, the Board could give little weight to Respondent's estimate of 10% since there was no support as to where that figure came from. The Board was most persuaded by the data presented by Petitioner's witness that shows there has been a decline in bowling participants and in the number of bowling alleys, and the estimate of 53% for economic obsolescence is supportable.

4. The Board placed little weight on Petitioner's Income Approach since the income data, for the most part, is older. Further, the Board agrees with Respondent that the leases may not be current and may include riders or other non-verified data, making the conclusion weak.

5. The Board agrees that the sale at 2325 S. Federal should be given most weight. However, the Board is not convinced that Petitioner sufficiently supported the adjustment for excess land due to the land-to-building ratio. Neither was the Board persuaded by Respondent's value of \$26.00 per square foot for the subject property since the most weight was placed on that same sale

which indicates an adjusted selling price of \$20.76 per square foot. The Board finds the cost approach of both Respondent and Petitioner similar with regards to replacement cost. The major difference is the amount of economic obsolescence and the Board was most persuaded by Petitioner's use of market data to support the obsolescence.

6. After careful consideration of all the evidence and testimony presented, the Board recalculated the value using a value of \$20.50 per square foot. The Board concluded that the 1999 and 2000 actual value of the subject property should be reduced to \$461,886.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 1999 and 2000 actual value for the subject property of \$461,886.00.

The Jefferson 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.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 28th day of August, 2003.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Steffen A Brown

Steffen A. Brown

This decision was put on the record

AUG 27 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

