

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHNSON PROPERTIES, LTD.,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 42939</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 16, 2005, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Mr. William H. Ebbert, Vice President of Johnson Properties, LLC. Respondent was represented by Max Taylor, Esq. Petitioner is protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**250 Acoma Street, Denver, Colorado
Denver County Schedule No. 05102-32-033-000**

The subject property consists of an 18,400 square foot vacant lot.

ISSUES:

Petitioner:

Petitioner contends that actual income should be used to value the subject property. Respondent's comparables are not truly comparable due to differences in zoning and superior access and visibility. In addition, the amenities of the comparables at the time of sale are not clearly known.

Respondent:

Respondent contends that the subject property is associated with a property at 235 Broadway and was valued in part as an allotment of that property's value. The subject's zoning with non-conforming use was considered.

FINDINGS OF FACT:

1. The only access to the subject property is from the alley between Broadway and Acoma Street. The subject property is fenced as though it was two lots, but it is listed on Respondent's records as one parcel. There are no utility taps on the property. The zoning is R2A with a non-conforming use. The subject property has been leased to Champion Auto Body since October 1, 2000 for \$720.00 per month.

2. Petitioner presented an income approach based on the subject's actual income to derive a value of \$65,373.45 for the subject property. Petitioner applied a 5% vacancy rate, a 10% expense deduction, and an 11.3 % capitalization rate. Petitioner did not present any comparable market income information. Without market data to determine if the subject property's actual income and expenses were reasonable, the Board could give little weight to Petitioner's income approach.

3. Petitioner did not present a cost or market approach.

4. Petitioner is requesting a 2003 actual value of \$65,373.45 for the subject property.

5. Respondent presented the following indicators of value:

Market:	\$96,300.00
Cost:	\$96,300.00
Income:	Not Applicable

6. Based on the market approach, Respondent presented an indicated value of \$96,300.00 for the subject property.

7. Respondent presented four comparable sales ranging in sales price from \$89,900.00 to \$683,892.00 or from \$4.47 to \$14.13 per square foot, and in size from 8,472 to 153,105 square feet. After adjustments for size, location, zoning and access, the sales ranged from \$5.14 to \$12.72 per square foot. Respondent's Sale 3 is most comparable to the subject in size and zoning. Respondent concluded to an initial value of \$115,368.00, or \$6.27 per square foot. However, as the subject's use is dependent on the business located at 235 Broadway, Respondent reduced the value of the subject to \$96,300.00. Respondent gave most weight to the value indicated by the market approach.

8. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$96,300.00; \$1,000.00 for fencing and \$95,300.00 for the land.

9. Respondent did not present a stand-alone income approach for the subject property. Respondent included the subject property in the income approach calculation for 235 Broadway as Respondent considered the two properties to be a single economic unit.

10. Respondent assigned an actual value of \$96,300.00 to the subject property for tax year 2003.

CONCLUSIONS OF LAW:

1. Based on the evidence and testimony presented, the Board concluded that the subject property was correctly valued for tax year 2003.

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 4th day of November 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Karen E. Hart

Karen E. Hart

This decision was put on the record

NOV 04 2005

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

