

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

Docket No.: 45019

Petitioner:

**ROBERT G. AND JANET D. BOARDMAN,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF EQUALIZATION.**

## **ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on February 8, 2010 Diane M. DeVries and MaryKay Kelley presiding. Marvin Cardenas, agent, represented Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2005 actual value of the subject property.

### **PROPERTY DESCRIPTION:**

Subject property is described as follows:

**9138 Spruce Mountain Road, Larkspur, Colorado  
(Douglas County Schedule No. R0085761)**

The subject is a mixed-use property located on a 0.519 acre site, approximately one-third of which lies in a federally designated flood plain. Built in 1923, the first level of the two-story structure is a 3,202 square foot auto body shop and the second level a 2,031 square foot living unit.

Respondent assigned an actual value for the subject property of \$185,094.00 for tax year 2005. Petitioners are requesting a value of \$165,000.00.

Mr. Cardenas described the subject's physical condition as poor. A three-foot water line and mold are the result of significant flooding in 1965, and Mr. Boardman considers 100% of the site to be in a flood plain. The residential unit reveals dry rot. A building appraiser estimated \$150,000.00 in repairs. Petitioners rejected 2008 and 2009 purchase offers of \$170,000.00. Business has

declined and neighbors are losing their properties. The assigned value is unjust. Petitioners' requested value reflects that of prior years.

Respondent presented an indicated value of \$248,000.00 for the subject property (\$30,000.00 for the site and \$218,000.00 for the improvement) and the following indicators of value:

|         |              |
|---------|--------------|
| Market: | \$306,000.00 |
| Cost:   | \$ 69,313.00 |
| Income: | \$248,000.00 |

## LAND

Based on abstraction and allocation analyses, Respondent's witness derived a land value of \$30,000.00 for the subject's 0.519 acre. He abstracted replacement costs new (Marshall & Swift Residential Cost Handbook) and depreciation from sales prices of five similar properties for a range of \$102,557.00 to \$165,426.00. Second, based on common practice in the appraisal community and on experience, he allocated 20% of the five sales prices to land, the range being \$25,600.00 to \$42,500.00. Placing weight on the lower end of the allocation analysis range, he deferred to the assigned value of \$30,000.00.

## MARKET APPROACH

Commercial: Respondent presented an indicated value of \$194,140.00. The witness presented three commercial comparables with sales price of \$520,000.00 (\$104.00 per square foot), \$400,000.00 (\$76.86 per square foot), and \$340,000.00 (\$122.52 per square foot). After adjustments for size, construction quality, age, and condition, prices per square foot were \$90.00, \$65.00, and \$104.00.

Residential: Respondent presented an indicated value of \$112,000.00. The witness presented three comparable sales ranging in sales price from \$128,000.00 to \$180,000.00 and in size from 768 to 1,599 square feet. The witness subtracted personal property, sales concessions, and land to arrive at an indicated value for the residential unit. He made adjustments for design and appeal (all comparable sale improvements were located on the ground floor in comparison to the subject's second floor location), construction quality (average versus the subject's low quality), effective age, size, bedroom count, and heating. After adjustments were made, the sales ranged from \$108,960.00 to \$141,280.00. The witness concluded at the low end of the range to address the subject's physical condition and flood status (two of the three sales were also in flood plains).

The indicated value of \$306,000.00 was given secondary weight in the final value conclusion.

## COST APPROACH

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$39,313.00 (\$16,273.00 for the commercial component and

\$23,040.00 for the residential unit). Because of the property's age and accrued depreciation, no weight was given this approach.

### **INCOME APPROACH**

Respondent presented an indicated value of \$135,608.00 for the commercial component of the property. A market rent of \$8.00 was derived from three comparable market leases of \$8.81, \$8.00, and \$8.00 per square foot. A vacancy rate of 10% and operating expenses of 25% were applied for a net operating income of \$17,290.00. A capitalization rate of 10.00% (plus a tax load of 2.75%) reflected associated risk and was based on market sales and published market surveys. The witness concluded to a value of \$135,608.00 plus \$112,000.00 for residential improvements or \$248,000.00 rounded. This approach was given most weight in reconciliation.

### **CONCLUSION**

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2005 valuation of the subject property was correct.

The Board acknowledges Petitioners' concerns about the property's inferior condition, yet concludes that it was an operating concern on January 1, 2005. Respondent's approaches to value were based on a 2006 physical inspection, and Petitioners presented no evidence contradicting Respondent's appraisal.

Respondent assigned a value of \$185,094.00 for tax year 2005, at this level the Board feels that appropriate consideration was given to the deficiencies in the subject property.

Petitioners' assumption that the property's appropriation is 2/3 commercial and 1/3 residential is correct: Respondent allocated 64% to commercial (assessed at 29%) and 36% to residential (assessed at 7.96%).

### **ORDER:**

The petition is denied.

### **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

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

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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 22<sup>nd</sup> day of April 2010.

**BOARD OF ASSESSMENT APPEALS**

Diane M. DeVries  
Diane M. DeVries

MaryKay Kelley  
MaryKay Kelley

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

H.F.  
Heather Flannery

