

<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>JOHN MARRIOTT,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>MORGAN COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48116</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 13, 2008, MaryKay Kelley and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by David Bute, Esq. Petitioner is protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**614 West Railroad Avenue,  
Fort Morgan, Colorado  
(Morgan County Schedule No. R0006699)**

The subject property was built in 1949 and is a 48 foot by 50 foot block building or 2,400 square feet with 12 foot wall height. The property has historically been used for an auto repair business and has electrical service adequate for that type of business. The property was converted from a flat roof to panel steel roof about ten years ago.

Petitioner purchased the subject property July 17, 2006 in an arm's-length transaction for \$71,000.00. The property had been on the market for nine months.

Petitioner presented actual income and expenses and used a 9.5 percent capitalization rate to derive an actual value using the income approach of \$70,747.00.

Petitioner is requesting a 2007 actual value of \$71,000.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$76,008.00
Cost:	N/A
Income:	\$75,400.00

Based on the market approach, Respondent presented an indicated value of \$31.67 per square foot or \$76,008.00 for the subject property. Respondent presented four comparable sales ranging in sales price from \$50,000.00 to \$110,000.00 and in size from 1,161 to 2,400 square feet. Adjustments were made for time, location, excess land, and type of construction. After adjustments, the sales ranged from \$52,569.00 to \$91,678.00.

Respondent believed that the cost approach was a weak approach due to age of the subject and did not consider this approach.

Respondent used the income approach to derive a value of \$75,400.00 for the subject property. Respondent used a rental rate of \$3.50 per square foot for 2,400 square feet, 5 percent for vacancy and collection, 15 percent for expenses, and a 9 percent capitalization rate.

Respondent assigned an actual value of \$76,010.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2007 valuation of the subject property was incorrect.

The subject property was purchased 17 days after the end of the data gathering period. The property was under contract as of the end of the period, June 30, 2006, in an arm's-length transaction. The Board believes that more weight should be given to the sale of the subject property.

Further the income approaches used by both parties were very similar. The Board believes that a higher capitalization rate should be used in valuing the subject property to address the subject's age, condition, location in an older section of town, and limited sales.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$71,000.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$71,000.00.

The Morgan County Assessor is directed to change his records accordingly.

**APPEAL:**

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 CRS section 24-4-106(11) (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.

Colo. Rev. Stat. § 39-8-108(2) (2007).

**DATED and MAILED** this 4<sup>th</sup> day of June 2008.

**BOARD OF ASSESSMENT APPEALS**

MaryKay Kelley  
MaryKay Kelley

Diane M. DeVries  
Diane M. DeVries

This decision was put on the record

**JUN 04 2008**

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

Heather Heinlein  
Heather Heinlein

