

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GILBERT ESPINOZA,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53490</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 29, 2010, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by Robert T. Hoban, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**1600 Carr Street, Lakewood, Colorado
Jefferson County Schedule No. 052091**

The subject is a 2,352 square foot single story structure built in 1948 as four residential units and later converted to three commercial units: 1,280 square feet with a reception area, two offices, a file/break room, and two restrooms; 460 square feet with a reception area, office, kitchen/break room, and two restrooms; and 615 square feet with a reception area, two offices, kitchen/break room, and a restroom. The largest unit is occupied by the owner's son, a CPA. One of the smaller units is an acupuncture clinic, and the other is leased for residential and office space. The 0.253 acre corner site has 23 parking spaces.

Petitioner is requesting an actual value between \$199,920.00 and \$235,200.00 for tax year 2009. Respondent assigned an actual value of \$388,100.00.

Petitioner's witness, Mr. John L. Emmerling, Certified General Appraiser and Licensed Associate Broker, researched comparable properties and concluded that inequities existed among the

assessments. He compared the subject to the adjacent, similarly-appearing commercial property at 1614 Carr Street, which was assigned an actual value of \$188,500.00 (\$52.16 per square foot) while the subject's actual value was \$388,100.00 (\$165.00 per square foot). Also, he presented 17 county-provided sales, comparing the average of their per square foot taxes (\$3.45) with the subject's taxes (\$4.38).

Mr. Emmerling presented nine sales (CoStar) concluding to an average sales price per square foot of \$88.53. Four of the nine were considered most similar to the subject, the average sales price per square foot being \$106.00. Applying these two averages, he concluded to a value for the subject between \$85.00 and \$100.00 per square foot or \$199,920.00 to \$235,200.00.

Respondent's witness, Darla K. Jaramillo, Certified General Appraiser, weighed the three approaches to value. She considered the cost approach unreliable because of the age of the subject improvements and deferred maintenance. She declined use of the income approach due to discrepancies in actual lease and expense data and insufficient market lease data for residential conversions.

Ms. Jaramillo presented a market approach with four comparable sales, all residential conversions, ranging in sales prices from \$150,000.00 to \$540,000.00, in price per square foot from \$175.24 to \$227.56, and in net rentable area from 780 to 2,373 square feet. Quantitative adjustments were made for differences in location (neighborhood mix, traffic, visibility and access, land size and parking), design, tenant mix, and condition. Adjusted sales prices ranged from \$175.24 to \$216.18 per square foot. Ms. Jaramillo concluded to a value of \$200.00 per square foot or \$470,400.00.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2009.

Colorado Statute requires consideration of the three approaches to value. § 39-1-103(5)(a), C.R.S. None of the approaches were offered by the Petitioner, and although comparable sales were presented, they were not discussed in detail and were not adjusted for differences. Respondent considered and addressed all three approaches, presenting a site-specific market approach with four comparable sales, all residential conversions.

While the Board agrees that comparison of actual values with 1614 Carr Street indicates disparity and supports additional research, it disagrees with Petitioner's sole use of an equalization argument to compare actual values and per square foot taxes. In accordance with Colorado case law, an equalization argument is valid if evidence or testimony had shown the assigned value of the subject property had been derived by application of the market approach and correctly valued. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997). Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioner.

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 day of January 2011.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

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

Amy Bruis

Amy Bruis

