

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD A. STEWART</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 54278</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 9, 2011, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by David V. Cooke, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**4418 West 41st Avenue, Denver, Colorado
Denver County Schedule No. 02193-17-047-000**

The subject consists of a one-story masonry commercial retail and residential property built in 1870, containing a total of 7,369 square feet of gross building area. The gross building of the commercial retail area is 6,589 square feet and the gross building area of the residential area is 780 square feet. The residential portion has two rental units each containing a total of 390 square feet. The improvements are situated on an 11,149-square foot commercially-zoned lot.

Petitioner presented the following indicators of value:

Market:	N/A
Cost:	N/A
Income:	N/A

Petitioner is requesting an actual value of \$350,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$897,900.00 for the subject property for tax year 2009 but is recommending a reduction to \$448,400.00.

Petitioner presented no market approach and did not offer any comparable sales.

Petitioner, Mr. Richard Stewart, testified that the commercial building is used as a general store. He testified that the building is closed at times during the winter because of the excessive cost in utilities and other building expenses. He testified that there is an underground stream that would affect any re-development if below-surface parking is needed. Mr. Stewart stated that the lot configuration is not good because of the angles and the steps needed to get to the building. He testified that he had received a verbal offer to sell the property at \$250,000.00. He testified that one of the residential units is occupied and the other is vacant.

Petitioner presented no cost approach.

Petitioner presented no income approach.

Respondent presented the following indicators of value:

Market:	\$448,400.00
Cost:	\$495,400.00
Income:	\$407,100.00

Respondent's market approach included both the commercial and residential portions of the subject. Respondent's cost approach and income approach included only the commercial portion of the subject.

Respondent presented three comparable sales ranging in sale price from \$360,000.00 to \$640,000.00 or \$109.62 to \$194.53 per square foot and in size from 3,087 to 3,290 square feet. After adjustments were made, the sales ranged from \$117.92 to \$127.12 per square foot.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the commercial portion of the subject property of \$495,400.00.

Respondent used the income approach to derive a value of \$407,100.00 for the commercial portion of the subject property.

Respondent assigned an actual value of \$897,900.00 to the subject property for tax year 2009 but is recommending a reduction to \$448,400.00.

Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to Respondent's recommended value.

Respondent's appraiser, Mr. Donald P. Delmendo, testified that the neighborhood trend in the area represents demolition of older improvements and renovation of other commercial properties. He testified that one unit in the subject was vacant at time of his inspection. He testified that his best approach to value was the market approach where he concluded a value of \$448,400.00. Mr. Delmendo stated in his appraisal that the subject property was considered to be in poor to extremely

poor condition. He stated that a portion of the ceiling in the commercial area had large gaping holes and that one apartment unit had no water service. The other apartment was in poor condition. Mr. Delmendo testified that the market value of the subject is primarily land value and that token values are assigned to the improvements. He concluded a land value of \$445,900.00 and a total improvement value of \$2,500.00 for a total value of \$448,400.00.

The Board relied upon Respondent's value estimate since Petitioner provided no comparable sales to support his value estimate. The Board agreed that Mr. Delmendo's market approach was the best approach utilized to derive the value estimate because that approach included both the commercial and residential portions of the subject.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$448,400.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$448,400.00.

The Denver County Assessor is directed to change his/her records accordingly.

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 16 day of May 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Lyle D. Hansen
Lyle D. Hansen

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

Amy Bruins
Amy Bruins

