

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>STANLEY L. AND EDITH SUE MCFADDEN,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 56064</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 15 2011, Louesa Maricle and MaryKay Kelley presiding. Stanley L. McFadden appeared pro se on behalf of Petitioners. Respondent was represented by Jennifer A. Davis, Esq. Petitioners are protesting the 2010 actual value of the subject property.

Dockets 56063 and 56064 were consolidated for purposes of the hearing only.

As a preliminary measure, the Board addressed Respondent’s Motions for Sanctions. After weighing testimony, the Board does not believe sanctions are proper. Sanctions are an extreme measure. The Board recognizes Petitioners’ confusion about the appeal process and appraisal methodology and doesn’t feel their actions merit sanctions.

Subject property is described as follows:

**426 East Highway 50, Salida, Colorado
Chaffee County Schedule No. R380705309039**

The subject property consists of a car wash (two structures) on a 32,875-square foot site. One structure has one automatic and three self-serve bays. The second structure has three self-serve bays. The site is irregular, sits next to a convenience store/gas station, and fronts Highway 50.

Petitioners are requesting an actual value of \$500,000.00 for tax year 2010. Respondent assigned a value of \$644,586.00.

Mr. McFadden testified that the Assessor's Office changed the size of the subject lot size from 27,329 to 32,875 square feet without explanation. The actual value requested by Petitioners was based on calculations using the original 27,329-square foot site.

Mr. McFadden disagreed with Respondent's land value, arguing that the price per square foot average of the three sales equaled \$8.96 and concluded to a value for the 27,329 square foot site at \$245,000.00, rounded. He also argued that Respondent assigned a land value of \$12.00 in comparison with \$10.51 for the other car wash he owns, which sits next to Wal-mart and enjoys superior visibility.

Respondent presented an indicated value of \$645,000.00, based on the following indicators:

Market:	\$655,200.00
Cost:	\$641,400.00
Income:	N/A

For the market approach, Respondent's witness, Richard A. Roberts, Licensed Appraiser with the Assessor's Office, presented three comparable properties, two sales and one listing. He reconciled near the median, giving most weight to Sale 1, a 2006 sale of a car wash within city limits. Value was indicated at \$175.00 per square foot or \$655,200.00.

For the cost approach, Mr. Roberts derived a land value of \$394,500.00 by presenting three vacant land sales ranging in price from \$105,000.00 to \$712,000.00, in price per square foot from \$6.44 to \$11.37 after application of time adjustments, and in adjusted sale prices from \$10.69 to \$13.62 per square foot. He concluded to \$12.00 per square foot or \$394,500.00. He then applied cost data from the Marshall & Swift Handbook for the improvements and calculated physical depreciation to arrive at a total cost approach value of \$641,400.00.

Mr. Russell, Licensed Appraiser with the Assessor's Office, defended the change in the subject's lot size. Deed information was entered into a GIS mapping system, which concluded that Respondent's assessment of 32,875 square feet was correct. A survey would settle any dispute.

Mr. McFadden argued that Respondent's Sale 1 should have been disallowed because it involved asbestos remediation and leaking gas tank mitigation, the cost of which was carried forward to the purchaser. Mr. Roberts responded that Sale 1, dated July of 2007, was the second of two transactions, the first prior to remediation and mitigation and the second being vacant land.

The absence of income and expense data prevented Respondent from completing an income approach.

Mr. Roberts weighed both market and cost approaches to value, concluding to a value of \$645,000.00 for the subject property.

Petitioners failed to present sufficient probative evidence and testimony to prove that the tax year 2010 valuation of the subject property was incorrect.

In cases involving commercial property, Colorado Statute requires consideration of the three approaches to value. Section 39-1-103(5)(a), C.R.S. Notwithstanding Petitioners' confusion regarding the appeal and appraisal processes, none of the approaches to value was provided. Additionally, neither testimony nor evidence was presented to convince the Board that Respondent's value was incorrect. Petitioners' requested value is neither market based nor supported by actual or market incomes and expenses.

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).

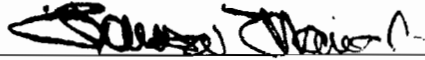
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

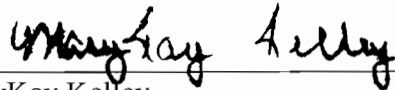
Section 39-8-108(2), C.R.S.

DATED and MAILED this 29 day of July 2011.

BOARD OF ASSESSMENT APPEALS



Louesa Maricle



MaryKay Kelley

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



Amy Bruins

