

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket No.: 56710 and
56711**

Petitioner:

KEITH A. WAGNER,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS; JEFFERSON COUNTY BOARD
OF EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 29, 2011, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner was represented by Michael Sampson, Agent. Respondent was represented by Martin E. McKinney, Esq. Petitioner is requesting an abatement/refund of taxes for tax year 2009 and is protesting the actual value for tax year 2010.

Docket Numbers 56710 and 56711 have been consolidated.

Subject property is described as follows:

**5716 Ammons Street, Arvada, Colorado
Jefferson County Schedule No. 010239**

Petitioners are requesting an actual value of \$228,500.00 for each tax year 2009 and 2010. Respondent assigned a value of \$315,900.00 for each of the tax years.

The subject property is a 1,078 square-foot chiropractic office. Built as a residence in 1959, it was later converted to commercial use and is located in an area of both residential and commercial properties. The interior has retained its original floor plan. The basement, with raised windows, has both front and rear entrances. The 9,069 square-foot site provides paved off-street parking, a carport, detached garage, and rear access from the alley.

Petitioner, represented by Michael F. Sampson, presented two income approaches: a market projection with income data and vacancy rate derived from suburban-metropolitan office surveys, typically allowed expenses, and application of a tax-loaded capitalization rate (value estimate of \$195,900.00); and a pro forma approach based on owner occupancy with income and expense data based on IRS 1040 Schedule E, without vacancy or miscellaneous income, and a capitalization rate (value estimate of \$264,000.00). Value, per the income approach, was estimated at \$230,000.00.

Petitioner's witness, Ben C. Alexander, Certified General Appraiser, presented two market approaches using residential-to-commercial conversions. The first approach presented the main floor as primary commercial space and concluded to an indicated value of \$220,502.21. The second approach valued main and basement levels equally and concluded to a value of \$217,389.48.

Petitioner's requested value of \$228,500.00 was based on consideration of both income and market approaches to value.

Respondent presented a market approach to derive a value of \$350,350.00 for the subject property. Respondent's witness, Ms. Darla K. Jaramillo, Certified General Appraiser, presented four comparable sales, all residential-to-commercial conversions. One sale was selected from the extended base period because of its raised basement, a feature the witness considered significant in marketability and value.

Petitioner presented sufficient probative evidence and testimony to prove that valuation of the subject property for tax years 2009 and 2010 was incorrect.

The Board has little confidence in Petitioner's income approaches. The market-projection approach relied on suburban office rents, a broad category not reflective of the residential-conversion commercial market. The pro forma relies on Petitioner-provided tax data without support from the marketplace.

The Board has little confidence in Sales 3 and 4 of Petitioner's market approach. These sales were not exposed to the open market and were not arm's length transactions.

The Board is not convinced by all of Respondent's adjustments. It is not persuaded that the subject's raised basement should be valued higher than a sub basement and questions the 50% basement adjustment. Also, the Board is convinced that major traffic locations for Sales 3 and 4 should carry substantially greater adjustments for visibility and access than were applied.

The Board finds that the sale at 8580 Ralston Road, used by both parties, is the best indicator of value. Petitioner's first market analysis is more persuasive than Respondent's for the following reasons: the basement is not included in prime living space (basement ceilings are low, hallways are narrow, and functional issues exist); the basement adjustment is more realistic; and the Board considers the subject's visibility, accessibility, and parking to be inferior to this sale's corner lot on a city arterial. Petitioner's adjustments, therefore, are more convincing.

The Board concludes that the 2009 and 2010 actual values of the subject property should be reduced to \$228,500.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2009 actual value for the subject property of \$228,500.00.

Respondent is ordered to reduce the 2010 actual value of the subject property to \$228,500.00.

The Jefferson 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 for assessment/abatement of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment/abatement of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 7 day of April 2011.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier
Sondra W. Mercier

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 Bruins
Amy Bruins

