

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 56958

Petitioner:

CHANDRA LEWIS,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 1, 2011, Diane M. DeVries and Gregg Near presiding. Petitioner was unable to appear due to medical reasons and his son, Michael Lewis, appeared pro se on Petitioner's behalf. Respondent was represented by James Burgess, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**4700 S. Wadsworth Boulevard
Littleton, CO 80123
Jefferson County Schedule No. 013633**

The subject is a residential office conversion containing 2,160 square feet of main floor area on a 21,867 square foot site. The building was originally constructed as a residence. This location is situated off South Wadsworth Boulevard which is a high traffic major artery in the neighborhood. Wadsworth is also a commercial strip in this location, though most of the development is on the west side. The subject is located on a street with a similar residential conversion and a car wash to the north. Multi-family development is situated east of the subject.

In 1985, a zoning resolution was filed changing the subject's A-2 zoning to PD, Purpose Office with restricted use as a professional office. An Official Development Plan (ODP) was filed for the subject in 1987. The ODP limits the permitted uses to business and professional office and the

parking of cars and light trucks incidental to the allowed uses. Mr. Chandra Lewis occupied the property until 2005 as an insurance office.

Petitioner presented no comparable sales but relied upon the post-base period sale of the subject.

Petitioner is also requesting the classification of the property be changed to residential. Mr. Chandra Lewis stated in his Petition that the subject was his primary residence from 2005 to 2010.

Petitioner is requesting an actual value of \$245,000.00 for the subject property for tax year 2010 and a change in classification from commercial to residential.

Respondent assigned a value of \$475,100.00 for the subject property for tax year 2010.

Respondent presented the following indicators of value:

Market:	\$496,800.00
Cost:	Not applied
Income:	Not applied

Respondent's witness, Darla K. Jaramillo, a Certified General Appraiser, presented four comparable sales ranging in sale price from \$276,000.00 to \$450,000.00 and in size from 1,373 to 2,421 square feet. After adjustments were made, the sales ranged from \$201.52 to \$247.30 per rentable square foot of building area.

Ms. Jaramillo reconciled to a unit value of \$230.00 per rentable square foot and applied it to the subject's area and concluded to a value of \$496,800.00 by the market approach.

Ms. Jaramillo did not apply an income approach but considered the approach as a test of reasonableness. Using income figures provided by Petitioner for the adjacent and similar office conversion to the north and applying basic expense estimates, a net income of \$42,218.00 was derived. This amount was capitalized by an average capitalization rate for office properties of 8.5%. The resulting indication, \$496,680.00, was supportive of the value by the market approach.

Ms. Jaramillo also presented photos and other file information documenting use of the property for commercial purposes; active listings of the property as commercial during the base period; and photos taken after the base period illustrating the office interior finish.

Respondent also called Mike Chadwick as a witness. Mr. Chadwick is the Zoning Administrator for Jefferson County. Mr. Chadwick stated that the only allowed use of the subject under the ODP was for retail or office. Residential use is not a permitted use under the ODP and would therefore be prohibited. State statutes prohibit un-allowed uses.

Petitioner contends that his unsuccessful attempts to sell the property at prices above Respondent's value during the base period and subsequent sale post the base period is supportive of

a lower valuation. The observed use of the building by a commercial tenant was in violation of an agreement whereby the tenant was allowed use of the grounds and restrooms only. When Petitioner discovered the tenant had illegally occupied the structure, the tenant was asked to vacate. Petitioner also contends that Jefferson County had allowed a change in classification from commercial to residential during 2007 through 2010.

Respondent contends the property is not residential and has a history of commercial use. The value determined by a site-specific appraisal supports a higher value than the value assigned to the property in the original valuation. Further, Respondent argues that the use of the property for residential purposes is contrary to the zoning and is prohibited.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2010. The Board is aware of the health and distance limitations under which Petitioner marketed the building.

The Board was convinced that the use of the property during the base period was not residential given the information presented by Respondent. Respondent's Appraiser provided a supportable opinion of value utilizing sales of similar locational and physical attributes. Differences between the sales were explained and adjusted accordingly.

The Board finds that the subject property was correctly valued for tax year 2010 and that the classification of the subject as commercial property is appropriate.

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).

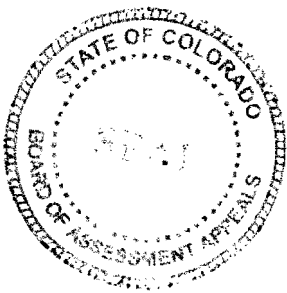
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 29th day of December, 2011.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink, appearing to read "Diane M. DeVries".

Diane M. DeVries

A handwritten signature in black ink, appearing to read "Gregg Near".

Gregg Near

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

A handwritten signature in black ink, appearing to read "Milla Crichton".

Milla Crichton