

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

Docket No.: 59494

Petitioner:

DON M. MCNURLIN,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 22, 2012, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Docket No.: 59494 was consolidated with Docket No.: 59495 for purposes of the hearing only.

Subject property is described as follows:

**2535 Wadsworth Blvd. Lakewood, Colorado
Jefferson County Schedule No. 015904**

The subject property is a 4,185 (per Jefferson County) square foot owner occupied office building. The property was originally constructed in 1958 as a ranch style single-family house and subsequently converted to commercial use. Lot size is approximately 1.41 acres and zoning is S-OF. The lot is rectangular in shape and fronts Wadsworth Blvd. Ingress and egress is via a curb cut and driveway that is shared with an adjacent property under the same ownership. All utilities are publically provided. The improvements are reported to be well maintained and in overall good condition.

Petitioner is requesting an actual value of \$600,000 for the subject property for tax year 2011. Respondent assigned a value of \$746,100 for the subject property for tax year 2011.

Petitioner's witness, Mr. John DeRungs, MAI and Colorado Certified Appraiser, provided an appraisal on the subject property reflecting a value of \$600,000. The sales comparison approach and income approach were developed in the appraisal and indicated the following opinions of value:

Cost:	Not Developed
Market:	\$600,000
Income:	\$325,000

Exclusive weight was placed on the sales comparison approach in terms of the final opinion of value.

Relative to the market (sales comparison) approach, Mr. DeRungs presented seven comparable sales, including the subject property. The comparables ranged in sales price from \$122.42 to \$185.87 per square foot and in dates of sale from August of 2007 to October of 2008. Five of the comparables were originally residential properties that were converted to commercial. Mr. DeRungs concluded to an adjusted value of \$143.85 per square foot for the subject with primary weight placed on the sale of the subject. Based on 4,157 square feet of the subject's building area, Mr. DeRungs concluded to a value via the market approach of \$600,000.

Mr. DeRungs also presented an income approach resulting in a value of \$325,000 for the subject. Eight rent comparables were included in the analysis including the leasing of the adjacent property that is under the same ownership as the subject. The analysis provided by Mr. DeRungs concluded to a \$14.00 per square foot modified gross rental rate, a 10% stabilized vacancy factor, \$13,330 for total expenses, and an overall capitalization rate of 9.75% prior to tax load. As noted, the income approach was given no weight in the conclusion of value.

Petitioner, Mr. McNurlin, also testified at the hearing and indicated that he currently occupies the building, that the access to the property was poor given the traffic patterns on S. Wadsworth Blvd, and that the current zoning was highly restrictive.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market:	\$837,000
Income:	Not Developed

Based on the market approach, Respondent presented an indicated value of \$837,000 for the subject property; however, noted that the current assigned value for the subject is \$746,100.

Respondent's witness, Ms. Darla K. Jaramillo, a Certified General Appraiser with the Jefferson County Assessor's Office, presented a market approach referencing four sales. The comparables ranged in adjusted sales price from \$196.25 to \$203.49 per square foot and in dates of sale from April of 2008 to May of 2010. All of the comparables were originally constructed for residential use and were subsequently converted to commercial. Ms. Jaramillo concluded to an adjusted value of \$200.00 per square foot. Based on the subject's 4,185 square feet, Ms.

Jaramillo concluded to a value via the market approach of \$837,000. Respondent's witness did not use the October 2008 sale of the subject property that sold for \$155.32 per square foot as a comparable sale. Ms Jaramillo stated that this comparable was not a qualified sale given that it was not listed on the open market and was purchased by an adjacent user.

Respondent further argued that access to the property was adequate considering its use, that the restrictive zoning was in process of being changed by the City of Lakewood, and that the comparable sales presented by Petitioner and the adjustment to those sales were suspect.

After review of the exhibits and testimony provided at the hearing and review of the language contained in the relevant section of the Assessor's Reference Library pertaining to non-qualifying sales, the Board concludes that the sale of the subject property for \$155.32 per square foot was an arm's length market transaction and should have been considered in the market approach analysis.

In addition, the Board concludes that the market approach is the best approach to use relative to conclusion of value and that both Petitioner's and Respondent's comparables that were residential properties subsequently converted to commercial use, in addition to the subject, should be given primary emphasis. These include Petitioner's comparables that reflect a weighted average \$143.85 per square foot after adjustment, and Respondent's comparables that average \$200.32 after adjustment. Considering this data, the Board concludes to a market value for the subject property of \$175.00 per square foot or \$732,375 based on the subject's 4,185 square feet.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$732,375.

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 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 21st day of November, 2012.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

[Signature]

James R. Meurer

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

[Signature]

Milla Crichton

