

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

**Docket No.: 62144**

Petitioner:

**WELLINGTON RESOURCES LLC,**

v.

Respondent:

**JEFFERSON COUNTY BOARD OF  
COMMISSIONERS.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on January 17, 2014, Gregg Near and Diane M. DeVries presiding. Petitioner was represented by Hal M. Sears, owner of Wellington Resources, LLC. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2012.

Subject property is described as follows:

**17218 South Golden Road  
Golden, Colorado 80401  
Jefferson County Schedule No. 449221**

The subject property consists of a car wash and auto-service building containing a total of 4,516 square feet of which 1,320 square feet is basement. The building is located on a .598 acre site. The improvements were developed in 2007 for a reported cost of \$1,021,500 (\$566,500 for land plus \$455,000 for building permit). The building contains three lube bays, an automatic car wash bay, equipment room and office area. The basement area is located beneath the lube bays. The facility is flagged as a Grease Monkey franchise. After the current base period (January 1, 2009 – June 30, 2010), Vectra Bank foreclosed on the property re-selling it back to Petitioner in October 2011 for \$540,100.

Petitioner is requesting a 2012 actual value of \$540,000 for the subject property. Respondent is recommending a value determined by the Jefferson County Board of Equalization of \$647,200 for tax year 2012.

Petitioner's witness, Mr. Hal M. Sears, presented the following indicators of value:

Market:	\$540,000
Cost:	Not Provided
Income:	Not Provided

Based on the market approach, Mr. Sears presented an indicated value of \$540,000 for the subject property.

Mr. Sears presented three comparable sales ranging in sale price from \$350,000 to \$825,000 and in size from 2,240 to 5,499 square feet. After adjustments were made, the sales ranged from \$363,248 to \$533,157.

Mr. Sears identified one sale of a Big-O Tire store in Thornton and two sales of Grease Monkey operations in Colorado Springs; one in the north metro area and the other in Woodland Park. Mr. Sears indicated the north metro property contained \$450,000 of auto car wash equipment and the sale price needed a downward adjustment of \$100,000 for personal property. No other adjustments were applied to the sales. Mr. Sears indicated he had knowledge of these Grease Monkey transactions through his business operations.

Mr. Sears testified to difficult business conditions during 2009 and 2010 and the presence of another quick lube shop nearby having led to his loss of the property. Although he re-purchased the facility after the end of the base period, he contended his purchase price represents the correct value.

Respondent presented the following indicators of value:

Market:	\$1,101,600
Cost:	\$937,425
Income:	\$1,052,560

Respondent's witness Ms. Darla K. Jaramillo, a Certified General Appraiser, presented a market approach consisting of five comparable sales ranging in sale price from \$1,100,000 to \$3,400,000 and in size from 3,090 to 8,707 square feet. After adjustments were made, the sales ranged from \$1,147,850 to \$3,330,000.

Adjustments were applied for personal property, location, size, condition, and access. The sales reflected an adjusted range from \$325.48 to \$382.45 per square foot. Ms. Jaramillo reconciled to a unit value of \$360.00 per square foot and a value by the market approach of \$1,101,600.

Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$937,425.

Ms. Jaramillo considered five vacant land sales and, after adjustments for location, access and visibility, determined a value for the subject land, as if vacant, of \$442,646. The Replacement

Cost New of the improvements was estimated by use of the Marshall Valuation Service. Ms. Jaramillo considered the costs for the individual building components as well as yard improvements. After determination of the appropriate replacement cost, each of the components was adjusted to account for physical depreciation to determine a Replacement Cost New Less Depreciation of \$494,779. Addition of the previously determined land value produced a value indication by the cost approach of \$937,425.

Respondent's witness used the income approach to derive a value of \$1,052,560 for the subject property.

Ms. Jaramillo presented "triple net" and "absolute net" rates from five leased automotive operations and reconciled to a rate of \$27.00 per square foot of gross building area. No vacancy was applied as the leases are all long term. Expenses of management were estimated at 2% of Effective Gross Income. Ms. Jaramillo capitalized the estimated Net Operating Income at an 8.5% overall rate derived from the 2010 publication of Burbach and Associates. The automotive service portion of the building was valued at \$952,560 to which \$100,000 was added for the car wash. The concluded estimate of value by the cost approach was \$1,052,560.

Respondent's witness reconciled to an actual value of \$1,100,000 for the subject property for tax year 2012. Respondent is recommending a reduction to \$647,200 as determined by the Jefferson County Board of Equalization.

Petitioner contends the economic conditions during the valuation period were so dismal that it was not possible to make a profit and, as a result, he lost the property to foreclosure. Petitioner also asserts that his post base period sale is still the best indication of value because the bank wanted to sell at the maximum price possible and his bid at \$540,100 was the best the bank could obtain. Petitioner also maintains Respondent's appraiser used "contract" rents that are much higher than "market" rents resulting in an overstatement of value.

Respondent objects to Petitioner's sales as hearsay. Petitioner's sales were provided by another person and that person was not at the hearing to testify. Respondent points to the superior location of Petitioner's property noting it is one mile from four major arterials. Respondent also contends Petitioner's sales are from remote locations whereas Respondent's appraiser relied upon comparable sales that were more proximate and more similar.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2012 valuation of the subject property was incorrect.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence...". *Board of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). The Board finds Petitioner's sales to be less compelling than Respondent's sales as Respondent's appraiser provided data from the local market. Petitioner's sales, on the other hand, were too remote from the subject. The Board is also not compelled by Petitioner's position that a bank sale of a foreclosed property back to the previous owner represents market value. Besides, the re-sale of the subject to Petitioner occurred after the applicable base period and cannot be

considered by the Board. (The applicable base period in this case is from January 1, 2009 to June 30, 2010. Petitioner re-purchased the property in October of 2011). Additionally, the Board found Petitioner's valuation analysis to be flawed by inconsistent adjustments and inadequate consideration of other tangible or intangible personal property.

**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-nine 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 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-nine days after the date of the service of the final order entered).

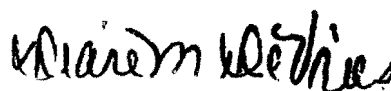
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 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 4th day of February, 2014.

**BOARD OF ASSESSMENT APPEALS**



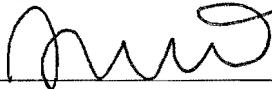
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Diane M. DeVries



Gregg Near

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



Milla Lishchuk

