

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

Docket No.: 63265

Petitioner:

NORA'S REVENGE LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 13, 2014, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Bethany A. Johnson, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**1933 Swede Gulch Road
Golden, CO 80401
Jefferson County Schedule No. 039278**

The subject property consists of an arena and boarding facility, known as the Ariston Equestrian Center, containing 47,652 square feet of enclosed area within a 1.5 story building. The facility was constructed in 1994 with an addition in 2006. There are two residential improvements including a 1.5-story, 4,104 square foot single family home originally constructed in 1950 and expanded and updated in 1981. A second residence contains 845 square feet constructed in 1950 is reported to have been uninhabited and not a usable structure. Additional structures include two garages (one 2-car and one 3-car), barns, loafing sheds and stable. The improvements are situated on 45.32 acres which are zoned agricultural.

Petitioner presented the following indicators of value:

Market: \$1,500,000

Cost: \$1,508,370
Income: Not applied

Petitioner is requesting an actual value of \$1,500,000 for the subject property for tax year 2013.

Petitioner's witness Mr. Michael H. Earley, a Certified General Appraiser, presented a market approach consisting of four comparable sales of horse boarding/training facilities ranging in sale price from \$730,000 to \$1,250,000 and in size from 10,372 to 36,072 square feet. The residential improvements ranged from 951 to 3,420 square feet and the sites ranged from 3.84 to 10.01 acres. After adjustments were made, the sales ranged from \$1,302,775 to \$1,511,335. Mr. Earley gave most weight to his adjusted sales 2, 3 and 4 and concluded to a value of \$1,500,000 by this approach.

Mr. Earley presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,508,370. Six comparable land sales were presented but sale 3, concluded in March 2007, was excluded from consideration at the hearing because it was outside of the extended valuation period. The land sales ranged in sale prices from \$6,660 to \$13,200 per acre and in size from 20 to 54.5 acres. After adjustments were applied, a unit value of \$10,000 per acre was concluded resulting in a value opinion of \$453,000 (rounded).

To estimate the contributory value of the improvements, Mr. Earley relied upon a state-approved cost estimating service to determine the replacement cost new. These figures were reviewed by a local contractor and concluded to be reasonable. The residences, barn, garages and loafing shed were depreciated by 42.1% on an age/life basis to recognize physical and functional obsolescence. The horse arena and stalls, as newer improvements with more recent updating, were depreciated by 20%. Mr. Earley determined economic obsolescence to be present by analysis of two recent sales of horse arenas and boarding facilities and applied a deduction of 45% to the cost new of the horse arena and stalls. Addition of the previously determined land value to the depreciated value of the improvements resulted in a value conclusion of \$1,508,370 by this approach.

Mr. Earley gave slightly less weight to the cost approach and concluded to a final value opinion of \$1,500,000.

Respondent presented the following indicators of value:

Market: \$520,000 (Residential Improvements Only)
Cost: \$2,100,000 (Agribusiness Only)
 \$2,300 (Agricultural Land Only)
Income: Not applied

Respondent's appraiser, Ms. Darla K. Jaramillo, a Certified General Appraiser, totaled the three figures above to determine a value of \$2,622,300 for the subject property for tax year 2013 but is recommending a reduction to the CBOE value of \$2,329,560.

Ms. Jaramillo presented four comparable agribusiness sales ranging in sale price from \$650,000 to \$1,300,000 and in land size from 3.840 to 7.335 acres. After adjustments were made for personal property, subtractions were taken for the market value of any residential improvements and subtractions of cost values were taken for agribusiness improvements. After the deductions were applied, the residual land values ranged from \$77,253 to \$177,589 {note the high range was reported as \$206,880 (Pet. Ex. A. at p. 24) and \$187,028 (at p. 25)} per acre. Four additional single family residential land sales were cited that ranged in sale price from \$16,186 to \$44,834 per acre and in size from 10.23 to 64.871 acres. Ms. Jaramillo concluded to a value of \$25,000 per acre and applied that figure to 5.32 acres defined as agribusiness resulting in a value conclusion of \$133,000. The remaining 40 acres were given the assigned agricultural rating value of \$57.00 per acre for a total of \$2,300.

Ms. Jaramillo used a state-approved cost estimating service to derive cost new values for the arena, the stables, barns and other buildings. The structures were depreciated at different amounts resulting in the conclusion outlined below:

Structure	Replacement Cost New	% Good	RCNLD
Arenas	\$2,575,591	76%	\$1,957,449
Stables	\$37,325	20%	\$7,465
Barns/General Purpose	\$26,730	20%	\$5,346
Total RCNLD			\$1,970,260

The depreciated cost was added to the agribusiness land value of \$133,000 for a total agribusiness value of \$2,103,260, or, \$2,100,000 (rounded).

Based on statutory guidelines, structures classified as residential use can only be valued by use of the sales comparison approach. Ms. Jaramillo presented two sets of sales, one for the main residence and the second for an additional 850 square foot residence. Three sales for the main residence were considered. The sales ranged in price from \$915,000 to \$955,000 and contained from 3,640 to 3,831 square feet. After adjustments were applied, the contributory land value was subtracted from each sale and an improvement value for the main residence of \$420,000 was concluded.

In a similar manner, three smaller residential sales were presented ranging in price from \$177,500 to \$405,000 and containing from 693 to 1,051 square feet. After adjustments were applied the contributory land value was subtracted from each sale and an improvement value for the small residence of \$100,000 was concluded.

Ms. Jaramillo provided three value conclusions:

1. \$520,000 (Residential Improvements Only)
2. \$2,100,000 (Agribusiness Only)
3. \$2,300 (Agricultural Land Only)

Respondent's witness, Tammy Crowley, an agriculture and vacant land appraiser for Jefferson County, provided testimony regarding Mr. Earley's comparable land sales and a new horse facility constructed in 2010 in the Indian Hills area.

March 5, 2014 Stipulation

During the hearing, testimony was provided regarding alleged building code violations impacting the plumbing, heat and electricity in the second floor area of the stable/arena building. The Board requested the parties to research the building code issues and potentially enter a stipulation in this regard. The parties provided a Stipulation on March 5, 2014 agreeing to the existing conditions and that the second floor area was currently zoned only for storage.

Petitioner has four major disagreements with the County's valuation:

1. The County failed to consider external analysis within the cost approach.
2. The County disregarded the market approach to valuation with respect to the agribusiness structures.
3. The County valued the subject in separate pieces and added the figures instead of determining the value as a whole.
4. The County used inappropriate comparisons for market and land values.

Items 1 and 2 are related as Respondent's appraiser, Ms. Jaramillo, chose agri-business properties from which to extract a land value but on the other hand stated there were insufficient sales to use for a market approach of the whole property. Without consideration of a sales comparison approach the appraiser concluded to no external obsolescence. Petitioner contended that Respondent chose land sales from dissimilar locations to determine an unreasonably high value for the agribusiness land. According to Petitioner, Respondent's appraiser used unreasonably high quality ratings and did not adequately consider declines in horse operations. Petitioner's appraiser correctly considered several sales of residential/horse boarding facilities to determine a market value opinion whereas Respondent claimed there were insufficient transactions. Petitioner also contended that Respondent's valuation methodology of separating portions of the subject then adding the numbers to be unreasonable and not reflective of market activity. Finally, Petitioner argued Respondent's residential and land sales were gathered from much different locations and were not comparable to the subject.

Respondent has three main disagreements with Petitioner's valuation:

1. The use of the market approach to value special use properties is too unreliable.
2. Petitioner's cost approach supports the County's value for the agribusiness portion.
 - A. Economic obsolescence is not supported by market data and Petitioner's methodology is unreliable.
 - B. Petitioner applied a base cost for the arena that understates the actual quality.
 - C. The County has supplied comparable land sales that are more proximate and more reliable.
3. The County properly valued the residences on the subject.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

The Board recognizes the complexity of the task presented to an appraiser when the State statutes and the ARL mandate the allowed approaches. After careful review of the information presented, both in testimony and exhibits, the Board is of the opinion that neither party valued the subject as intended by the statutes and the ARL.

The Board has reviewed the exhibits provided by Respondent and is not convinced that addition of separately valued parts of the subject correctly represents market value as envisioned by the regulation.

ARL, Vol. 3. Ch. 1.19 provides the following direction:

Mixed use properties which include a residential use may be appraised using the cost, market, or income approach, whichever is applicable. *However, if the cost or income approach is used because the improvements are primarily commercial in nature, the residential value component of the property should be allocated from the total actual value based upon market values per square foot of living areas found in residential properties most similar to the residential use.* The residential component for land value can be allocated on a typical residential land to building ratio basis. (Italic emphasis added.)

Respondent's valuation is a mix of sales and cost figures. This is a summation process that is not representative of the value of the whole.

Petitioner's valuation does produce a value of the whole but there is no analysis, as required by the above direction, of the allocated market value of the residence and a typical land component.

Based upon the March 5th Stipulation, the Board has determined that Respondent attributed an "excellent" quality finish rating to the entire Arena improvement. As the upper level is only zoned for storage, - the full kitchen, bathroom, workout room, bar, locker rooms and office area are a non-conforming use. To recognize the inutility caused by the over-improvement, the Board adopted Petitioner's cost figure for the Arena portion of the subject. Note that the use of replacement cost effectively negates the need to determine an adjustment for over-improvement.

Respondent did not complete a full cost approach; instead choosing to add the extracted market value of the residential improvements to the cost estimate of the other improvements. This is mixing the value approaches and is inappropriate. To complete the valuation via the cost approach, the Board adopted the cost estimate for the residential improvements as determined by Petitioner. Both parties provided a similar deduction for physical depreciation of the Arena improvement (20% to 24%) with 22% adopted by the Board. Petitioner's estimate of 42.1% physical depreciation was applied to the cost new of the residential improvements.

The revised RCNLD for Respondent is illustrated as follows:

Improvement	RCN	Depreciation %	RCNLD
Residential:	\$428,025	41.2%	\$247,826
Arena	\$2,141,481	22%	\$1,670,355
Stables	\$37,325	80%	\$7,465
Barns, etc.	\$26,730	80%	\$5,346
	Total RCNLD		\$1,930,992
Agribusiness Land @ \$133,000 (plus) Agricultural Land			\$135,300
Cost Approach Estimated Value:			\$2,066,292*

*Petitioner developed a RCNLD, prior to applying an adjustment for external obsolescence, of \$2,018,555 which suggests reasonable comparability.

The remaining significant difference between the parties' analysis is the presence, or lack of, external obsolescence. Petitioner contended external obsolescence accrued to the subject due to the adverse market conditions of the past 4-5 years. Respondent found no external obsolescence. Testimony was provided regarding new horse boarding facilities under construction or developed in Parker and Indian Hills. New construction is at odds with a declining market and leads the Board to some skepticism in regard to this adjustment. On the other hand, it is clear from testimony and exhibits the Arena is a very nice facility. Given a limited market, the subject appears unlikely to realize its cost of construction in a market sale. Petitioner determined external obsolescence of 45% to 50%. The Board applied an adjustment of 20% which reduced the RCNLD for the arena to \$1,242,059 and the total RCNLD to \$1,502,696. With the addition of the land component the modified value estimate by the cost approach is \$1,637,996.

To allocate the residential component of the land value, the Board considered the residential sales provided by Respondent. The primary sales were from high-value residential subdivisions and all required downward adjustment for quality. The residential land component of the sales ranged from \$38,385 to \$89,990 per acre, far different than the \$25,000 per acre applied by Respondent. In addition to neglecting to adjust for clearly superior locations, Respondent's sales did not reflect the market attributes of the subject such as limited access, metes and bounds legal descriptions, limited public utilities and a lack of covenants.

The Board finds there is sufficient market data available to consider, but not necessarily rely upon the market approach.

The appraisers for both parties referenced two horse-boarding sale transactions; 5200 W Coal Mine Avenue and 7650 Indiana Street. Respondent extracted a value for the improvements of \$125,000 and \$115,000, respectively. This represents 10% of the total value for the first transaction and 11.5% of value for the second, applicable solely to the residential improvements. In neither of the above cases, were the improvements equal in quality to the subject and the Board adopted 15% (of the total value) in this instance. At 15% of the estimated value of the whole by the cost approach the improvements contribute \$245,699. Traditionally the land value component for detached single-

family residential housing is approximately 20% of the total property value. On that basis the residential land and improvement allocation of the estimated cost approach value is \$307,124.

The Board concludes that the 2013 actual value of the subject property should be reduced to \$1,637,996.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$1,637,996.

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-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 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-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 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 2nd day of May, 2014.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Near

Gregg Near

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

Milla Lishchuk

