

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

Docket No.: 63576

Petitioner:

JOHN A. KINTZELE, SR.

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 4, 2014, Debra A. Baumbach and James R. Meurer presiding. Petitioner, John A. Kintzele Esq. appeared on his own behalf. Respondent was represented by Mitch Behr Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**1317 Delaware Street, Denver CO
Denver County Schedule No. 05034-07-029-000**

The property consists of a two-story, 2,602 gross square foot owner-occupied office building located in the Golden Triangle submarket, just outside the central business district of Denver. The structure was originally constructed circa 1902 as a residential property and subsequently converted to commercial use in 1980. The gross square footage includes a 332 square foot basement used for storage, lot size is 3,045 square feet, and zoning is D-GT (Golden Triangle Mixed Use) through Denver. There are six on-site parking spaces. The overall condition of the property is considered to be average.

Petitioner is requesting a value of \$200,000 for tax year 2013. Respondent provided an appraisal reflecting a value of \$244,400 which corresponds to the Board of Equalization's (BOE) assigned value of \$244,400 for tax year 2013.

Mr. Kintzele did not present any of the three customary approaches to value; however, questioned the validity of Respondent's appraisal by arguing that the socio-economic characteristics of the property's location in the Golden Triangle reflected significant blight Mr.

Kintzele also stated that the subject's location was inferior to the locations of the sale and rent comparables used by Respondent. Mr. Kintzele further argued that the value of the land in Respondent's cost approach was unrealistic, that overall property values had declined during the base period, and there had been no sales in this particular location for many years. Mr. Kintzele testified that he had been unsuccessful in attempting to sell or rent the property.

Respondent presented the following indications of value:

Cost:	\$246,900
Market	\$262,600
Income:	\$244,400

Respondent's witness, Mr. Carlos Gauna of the Denver County Assessor's Office, presented a cost approach based on data derived from Marshall Valuation Service reflecting a depreciated replacement cost for the subject of \$82,500. Mr. Gauna estimated physical depreciation at 50% to 70% of cost new based on data from the Marshall depreciation tables. Respondent's witness testified that he could not support, and did not deduct any additional functional or economic obsolescence given that these characteristics were reflected in the comparables. The depreciated cost was then added to land value of \$164,400 (\pm \$54.00 per square foot) to reflect a value via the cost approach of \$246,900.

Mr. Gauna developed a market (sales comparison) approach and presented three comparable sales to support his opinion of value. Sale prices ranged from \$233,000 to \$380,000 prior to adjustments. Qualitative adjustments were made primarily for location, and all of the sales occurred in the statutory (or extended) base period. Sale Nos. 1 and 2 were given primary weight in the conclusion of final value of \$262,600.

Mr. Gauna also presented an income approach to derive a value of \$244,400 for the subject property. A direct capitalization model was used and consisted of income based on a \$12.00 per square foot rental rate. A long term vacancy and collection loss was estimated at 5% and expenses including management were estimated at 15% of effective gross income or \$3,880. The net operating income of \$22,000 was then capitalized at a 9.00% overall rate, including the tax load, resulting in the indicated value of \$244,400 via the income approach. Petitioner's witness indicated that the income approach received primary consideration in his final opinion of value.

The primary areas of disagreement between Petitioner and Respondent consisted of whether any loss in value could be attributed to the specific location of the subject within the Golden Triangle submarket. In addition, the parties disagreed as to how economic conditions affected the property as of the valuation date.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2013 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. . ." *Bd. of Assessment Appeals v. Sampson*, 105

P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that the variables used in Respondent's approaches to value were not sufficiently impeached by Petitioner to allow the Board to consider a change in the assigned value. It is the conclusion of the Board that the three comparables used in Respondent's market approach are relatively similar to the subject (i.e. older office conversions), and, once adjusted, reflect a reasonable value for the subject. Although there is a paucity of rental data available for these types of owner-occupied properties, the rent comparables also translate into a reasonable indication of value for the subject. In addition, the Board could not determine from Petitioner's exhibits and testimony if any external obsolescence could be attributed to the subject property beyond what was reflected in Respondent's comparables.

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 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 12th day of February, 2014.

BOARD OF ASSESSMENT APPEALS

Debra A Baumbach

Debra A. Baumbach

James R. Meurer

James R. Meurer

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

Milla Lishchuk

Milla Lishchuk

