

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JERRY E. & AUDREY Y. KNUTSON,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jerry E. Knutson Address: 3326 Moffat Avenue Loveland, CO 80538 Phone Number: (970) 663-6055 Attorney Reg. #:</p>	<p>Docket Number: 37130</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 16, 2001, Karen E. Hart and Mark R. Linné presiding. Petitioner, Mr. Jerry E. Knutson, appeared pro se. Respondent was represented by Linda Connors, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 15 QUASEBARTH RESUB, ESTES PK
(Larimer County Schedule No. R0519529)**

Petitioners are protesting the 2000 actual value of the subject property, which consists of a 2,646 square foot industrial property located at 880 Dunraven Street in Estes Park, Colorado.

ISSUES:

Petitioners:

Petitioners contend that the Respondent has overvalued the subject property by not properly considering the difficulty in renting the property due to its configuration, and through the consideration of inappropriate rental and sales comparables.

Respondent:

Respondent contends that the assigned value of the subject property is supported by sales of similar properties, similarly situated, during the appropriate base period. The subject is configured as 50% restaurant and 50% warehouse. The concluded value was achieved with a consideration of all three approaches to value.

FINDINGS OF FACT:

1. Petitioner, Mr. Jerry E. Knutson, testified that the subject property was originally built in 1961 as an icehouse. An addition was built in 1970. The building is 2 feet above the street; the rear portion of the subject is 3 feet below the street. The property has no sidewalks and no curb and gutter.

2. The main room was originally used for ice storage; it is essentially a large freezer. Several steps have to be traversed to access the entirety of the space, which reduces the rentable space. Mr. Knutson testified that a ramp is sometimes installed by renters to overcome the step problem, which further reduces the display area.

3. The witness testified that the building faces north; one parking space is located on the west; three parking spaces are on the east; the backside of the building has limited parking.

4. The witness testified that the subject is of masonry block construction, and has no insulation on the walls or ceiling. The overhead doors are out of alignment. The west side of the building has no water and sewer, and does not have a bathroom. These factors make the space very hard to rent. This side of the property also has a water problem. The witness indicated that he had taken steps to keep it from being a major problem. The problem could be resolved by removing the overhead door, but this would cause other problems.

5. Mr. Knutson testified that parking is very critical in Estes Park, and the subject does not have sufficient parking. The witness testified that it is difficult to put a business in this part of town, because most of the operations are automobile-related. Many businesses would not locate at the subject's location because of the predominant nature of the auto-service uses. The east side of the building is presently leased out to a pizza delivery shop.

6. The witness testified that actual rents for 1998 amounted to \$18,500.00 annually. Expenses were detailed and included management at \$588.00, insurance at \$353.00, depreciation at \$608.00, and property tax at \$2,664.00. The net income was \$14,288.00. The Petitioner testified that he was only able to achieve this rate because he had professional management in place.

7. The witness testified that Dunraven Street is comprised mostly of buildings with automobile service uses, and it is therefore difficult to get other tenants to lease in the subject. The space currently occupied by the pizza restaurant took over four months to fill.

8. The Petitioner testified with respect to several leases on comparable properties, the data for several of which were outside of the base period. The Petitioner testified that though the referenced data was beyond the statutory period, it was his understanding that the income was even less during the base-year period than it is currently.

9. The witness testified that he generally leases for a two-year period. Estes Park is a very small community, and this makes it very difficult to rent space. He generally based his rent on 1% of value, and uses this as a rule of thumb.

10. Mr. Knutson described the comparable properties utilized by the assessor. He testified that the property at 800 Dunraven has a 6-foot high chain link fence at the end of this property. The comparable is on a level site, and for this reason is more valuable than the subject. The property was originally built as an auto repair facility.

11. The second Dunraven property was purchased by Mr. Knutson's former renter. He indicated that the sale was not a good sale because the purchaser did not care what it cost to get into the building and was possibly acquired via a lease-option arrangement.

12. The property at 1350 Graves Avenue was described as having a better location with a newer building and a level site.

13. The witness reiterated in his testimony that it was very difficult to stay in business in Estes Park: people come from larger towns to Estes Park expecting a utopia. In point of fact, the community is a difficult environment for business.

14. Petitioner is requesting a 2000 actual value of \$165,000.00 for the subject property, based on its actual income.

15. The witness testified under cross-examination that the property was not a restaurant. The space occupied by the pizza delivery facility is set up primarily for take out and delivery; virtually no one actually comes there to eat on site.

16. The witness testified that the only remodeling which had occurred at the subject was that of the tenant finish completed by the pizza delivery tenant.

17. Respondent's witness, Mr. Jon Cowling, Colorado Certified General Appraiser with the Larimer County Assessor's Office, testified that he had considered all three approaches to value in deriving a valuation for the subject property.

18. Mr. Cowling presented the following indicators of value for the subject property:

Cost:	\$158,575.00
Market:	\$238,100.00
Income:	\$216,500.00

19. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$158,575.00.

20. The witness testified that he utilized the cost approach and concluded \$3.00 per square foot for the subject's land value. In concluding a valuation, he looked at only three sales; given that there were limited sales in the Estes Park marketplace. All of the land sales are proximate. A replacement cost was calculated based on the configuration of the subject as one-half restaurant and one-half warehouse. Appropriate depreciation was applied, resulting in a cost approach conclusion of \$158,575.00.

21. Based on the market approach, Respondent's witness presented an indicated value of \$238,100.00 for the subject property.

22. Respondent's witness presented 3 comparable sales ranging in sales price from \$150,000.00 to \$750,000.00 and in building size from 1,855 to 5,636 square feet. After adjustments were made, the sales ranged from \$87.82 to \$138.75 per square foot. He correlated to \$90.00 per square foot, and concluded a value of \$238,100.00 from the market approach.

23. In discussing the direct sales comparison or market approach, Mr. Cowling testified that most properties of this type are owner-occupied. He indicated that there were a total of 29 sales in the 5-year survey period that were utilized in valuing the subject via the mass appraisal technique.

24. Respondent's witness used the income approach to derive a value of \$216,500.00 for the subject property.

25. The witness testified that the income approach begins with a rental survey. Respondent's Exhibit #1 provided the details of the income analysis. The survey included a total of four rentals. The indicated rental rate range was \$7.96 to \$10.91 per square foot. A rental rate of \$10.00 was concluded for the subject. A vacancy factor of 5% and expenses of \$2,408.00 were applied, resulting in a net operating income of \$22,729.00. A capitalization rate of 10.50% was applied, resulting in a concluded value of \$216,500.00.

26. After considering all three approaches to value, the witness testified that he concluded a value for the subject of \$235,000.00.

27. In response to questions from the Board, the witness testified that all of his adjustments were derived from the market but were not specifically broken down with respect to their quantification.

28. The witness responded to additional questions from the Board relating to the restaurant portion of the building. Though he did not know the amount of tenant finish expanded, he felt that half of the building could be described as a restaurant by virtue of the changes that the tenant had made.

29. The witness admitted that there was a functional problem with having a restaurant next to an industrial use. He additionally agreed that the property had limited parking and this was problematic as well.

30. The witness acknowledged that he would not continue the subject's existing use as a multi-tenant property.

31. Respondent assigned an actual value of \$235,000.00 to the subject property for tax year 2000.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000.

2. The Petitioner presented actual income and expense data on the subject that was far more persuasive in its prediction of the income generating capabilities of the subject than that derived from a survey of comparable rentals provided by the Respondent. The \$10.00 per square foot rental rate applied to the subject by the Respondent clearly overstates the subject's value within the income approach valuation. The Board considers a rate of \$9.00 to more accurately reflect the subject's ability to generate income. Utilizing a \$9.00 rental rate within the Respondent's proforma, with all other factors maintained at their same levels, results in a value of \$194,438.00.

3. The comparable sales utilized by the Respondent appear to have better location, configurations, construction or other characteristics. The Respondent's witness made adjustments that were not supported, and the valuation conclusion was not credible.

4. The cost approach presented by the Respondent appeared reasonable, though the Board notes that the use of a restaurant use component cost is not appropriate and could serve to overstate the value.

5. After due consideration of the approaches to value presented by the Respondent, the data presented by the Petitioner, and the adjustments as applied by the Board, a concluded value of \$200,000.00 is determined to be appropriate.

ORDER:

Respondent is ordered to reduce the 2000 actual value of the subject property to \$200,000.00, with \$18,000.00 allocated to land, and \$182,000.00 allocated to the improvements.

The Larimer County Assessor is directed to change his records accordingly

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 17th day of May, 2001.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Mark R. Linné
Mark R. Linné

This decision was put on the record

MAY 16 2001

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

Diane Von Dollen
Diane Von Dollen

