

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HOSSEIN A. BAGHER,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Hossein A. Bagher Address: 3200 East Third Avenue Denver, Colorado 80206 Phone Number: (303) 373-4040 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39976</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 13, 2002, Karen E. Hart and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Stephen R. Ford, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**272 Steele Street
(Denver County Schedule No. 05121-24-001-000)**

Petitioner is protesting the 2001 actual value of the subject property, a one story building built in 1953, with approximately 1,444 square feet and a full basement, located on a 6,250 square foot site on the corner of Steele Street and East 3rd Avenue.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued and the Respondent did not consider the income approach to value.

Respondent:

Respondent contends that the subject property was properly valued using the market approach to value.

FINDINGS OF FACT:

1. Petitioner, Mr. Hossein A. Bagher presented the appeal on his own behalf.
2. Petitioner did not present a market, income or cost approach to value. Based on a median sales price per square foot of land, Petitioner presented an indicated value of \$250,000.00 for the subject property.
3. Mr. Bagher testified the subject is a small property located at the east end of Cherry Creek. It is a corner site but it has five-foot setbacks on two sides, which makes it harder to improve.
4. Mr. Bagher testified the median price of all the sales in the neighborhood was \$44.00 per square foot, but most are larger than the subject and have more parking spaces. The larger properties are more valuable; he did not think his property was worth \$44.00 per square foot.
5. Under cross examination, Mr. Bagher testified, referencing Petitioner's Exhibit 1, that after removing the five foot set-backs there would only be room for 1,500 square feet of retail area and five parking spaces including one handicap parking space.
6. Upon questioning from the Board, Mr. Bagher testified the subject was worth no more than \$40.00 per square foot. He testified a corner site is more valuable than an interior site but the subject only has 5,054 square feet of usable land due to the setbacks. He testified the subject was used for retail space during the base period.
7. Petitioner is requesting a 2001 actual value of \$250,000.00 for the subject property.
8. Respondent's witness, Mr. Douglas Frank a Certified General Appraiser with the Denver County Assessor's Office, presented the following indicators of value:

Market:	\$332,600.00 (improved sales comparison)
Market:	\$348,400.00 (land sales comparison)
Cost:	\$367,800.00
Income:	\$186,100.00

9. Based on the market approach, Respondent's witness presented an indicated value of \$332,600.00 for the subject property, based on improved sales.

10. Respondent's witness presented four improved comparable sales ranging in sales price from \$330,000.00 to \$865,000.00 and in size from 1,487 square feet to 3,000 square feet and a price per square foot from \$184.25 to 296.33. After adjustments were made, the sales ranged from \$318,300.00 to \$413,100.00 and in a price per square foot from \$220.42 to \$286.06.

11. Mr. Frank testified the subject is located in the Cherry Creek North shopping district and carries a CCN zoning. It is a corner site with 6,250 square feet with a land to building ratio of 4.33:1. The improvement is a single story building with a full basement, and was built in 1968.

12. Mr. Frank testified the subject neighborhood is comprised of newer boutiques, restaurants and offices and the subject is an under improvement.

13. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$367,800.00. Mr. Frank testified that not much weight was given to this approach because the improvements do not support the land value.

14. Petitioner's witness presented an income approach to derive a value of \$186,100.00 for the subject property.

15. Mr. Frank described the income approach, testifying he based the subject property's income on \$17.50 per square foot, a vacancy and collection loss of 10%, operating expenses at 10% and a capitalization rate of 11% including taxes to derive a value of \$186,100.00. He testified the income approach was considered only to demonstrate the subject was under improved and it was not given any weight.

16. Based on the market approach, Respondent's witness presented an indicated value of \$348,000.00 for the subject property, based on vacant land sales.

17. Mr. Frank described four land sales, testifying comparable sale 1 was a similar corner site with 6,250 square feet, zoned B1 and had an adjusted sales price of \$52.00 per square foot. Comparable sale 2 was located mid block and has 12,500 square feet, zoned B1 and had an adjusted sales price of \$67.16 per square foot. Comparable sale 3 has a superior location with 6,250 square feet, zoned CCN and had an adjusted sales price of \$52.80 per square foot. Comparable sale 4 was mid block but superior in location with 8,334 square feet, zoned CCN and had an adjusted sales price of \$51.00 per square foot.

18. Mr. Frank testified he gave little weight to the improved sales since they were poor comparables, with the exception of comparable sale 1, which was a similar office conversion on a similar site as the subject. He testified the focus of the report is on the land sales and they were given most weight.

19. Under cross-examination, Mr. Frank testified the sales verbally quoted by the Petitioner were not the best sales in comparison to the subject. He considered the setbacks on the subject, testifying all the comparables have setbacks and it did not have much to do with value. The best comparable was land comparable sale #1 since it is the same size and is a corner site similar to the subject.

20. Upon questions from the Board, Mr. Frank testified the market does not show a difference between B1 and CCN zoning but what is important is location. The improvements, he testified, are obsolete and therefore the income does not support the land value.

21. Respondent assigned an actual value of \$312,500.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001.

2. Petitioner did not present any comparable sales of his own but verbally discussed an average sales price per square foot of sales, which occurred in the neighborhood. The Board could not give any weight to such analysis, as it does not follow any accepted appraisal principals required to form an opinion of value; average sales prices may not be used to determine a property's value. Proper appraisal methodology requires the use of sales of comparable properties that have had adjustments made to the sales prices for differences in market conditions and physical characteristics as compared to the subject property. The adjusted sales prices are then analyzed to determine the indicated value for the subject property.

3. The Board does not agree with the Petitioner that the five-foot setbacks, per zoning requirements, would make improving the subject difficult since all properties are subject to the same zoning requirements.

4. The Board agrees with the Respondent that the use of the cost and income approach would be inappropriate due to the subject's improvement age and condition and agrees the subject property is an under improvement. The Board reviewed the improved sales and agrees with the Respondent that they are older properties and do not compare to the subject.

5. The Board is most persuaded by the Respondent's market approach of land sales. They are in close proximity to the subject, in the same neighborhood, similar in size, sold within the base period and would be the most appropriate since the subject is under improved.

6. After careful consideration of all the presented testimony and evidence the Board affirms Respondent's assigned value

ORDER:

The petition is denied.

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 27th day of June, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Steffen A. Brown

Steffen A. Brown

This decision was put on the record

JUN 27 2002

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

Penny S Bunnell
Penny S Bunnell

