

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>JACK LIANG & WENDY LU,</p> <p>v.</p> <p>Respondent:</p> <p>CLEAR CREEK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 44947</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 6, 2006, MaryKay Kelley and Karen E. Hart presiding. Petitioners appeared pro se. Respondent was represented by Robert Loeffler, Esq. Petitioners are protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**409 Park Avenue, Empire, Colorado
Clear Creek County Schedule No. R007200**

The subject property consists of a 3,358 square foot restaurant/bar located on a 20,500 square foot site.

FINDINGS OF FACT:

1. Petitioners purchased the subject property in 2003 for \$175,000.00, which included the bar/restaurant building and a storage building. Respondent placed no value on the storage building in 2005 as the building had holes in the roof and was only usable for storage. Both parties agree that the subject improvements were in poor condition at the time of purchase. Petitioners subsequently made the following repairs to the bar/restaurant building:

- replaced the roof
- painted
- updated the piping
- updated the restroom
- replaced the stove hood

2. The repairs cost \$38,100.00 and were completed in June 2004. After the repairs were completed, the Clear Creek County Assessor upgraded the condition of the property from poor to average. We disagree. Given the type of repairs made, the condition of the subject property should be considered fair rather than average.

3. Petitioners contend that the subject land is overvalued as approximately half of the property is sloped and does not contribute to the commercial use. However, Petitioners did not present any evidence to support a change in land value.

4. Respondent presented the following indicators of value:

Market:	\$252,420.00
Cost:	\$243,660.00

5. In the market approach, Respondent presented three comparable sales ranging in sales price from \$169,500.00 to \$260,000.00 and in size from 2,048 to 4,893 square feet. After adjustments for size, location and condition, the indicated value range was \$280,090.00 to \$335,820.00. All condition adjustments were based on exterior inspections conducted at the time of sale.

6. At hearing, Respondent admitted that subject building size shown on the comparable sales grid was incorrect. After correcting the size of the subject building to 3,358 square feet and changing the condition of the subject property to fair, the indicated values ranged from \$186,098.00 to 236,468.00.

7. Respondent's Sale 1, a liquor store located next to the subject, sold for \$200,830.00 and is a one story frame building as is the subject. Respondent's Sale 2 is a Gallery located on the same street as the subject and is similar in size. However, it is a two story building with apartments on the upper floor. Respondent's Sale 3 is a bar/restaurant located in Silver Plume on Highway 70, an inferior location. Although Sale 3 has apartments, unlike the subject, Respondent considered this sale to be most similar to the subject.

8. Petitioners noted that Respondent's comparable sales are not of similar use and are therefore not comparable to the subject.

9. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$243,660.00 with a depreciated value of \$161,660.00 for the improvements and \$82,000.00 for the land. The cost approach was given little weight due to the age of the building.

10. Petitioners believe that the income approach would provide the most accurate indication of value as the subject is income producing property. We concur. However, Petitioners did not present financial information for the relevant time period and the financial information that was presented did not reflect stabilized income and expenses. Respondent did not present an income approach as most businesses in the area are owner occupied. Thus, insufficient data was presented to determine the value of the subject property based on the income approach.

11. Petitioner is requesting a 2005 actual value of \$215,000.00 for the subject property, based on the actual purchase price of the property plus the cost of repairs.

12. Respondent assigned an actual value of \$252,420.00 to the subject property for tax year 2005.

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2005 valuation of the subject property was incorrect.

2. The \$215,000.00 value requested by Petitioners falls solidly within the adjusted range of Respondent's comparable sales (\$186,098.00 to 236,468.00).

3. The 2005 actual value of the subject property should be reduced to \$215,000.00, with \$82,000.00 allocated to land and \$133,000.00 allocated to improvements.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$215,000.00, with \$82,000.00 allocated to land and \$133,000.00 allocated to improvements.

The Clear Creek County Assessor is directed to change her 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 14th day of October 2006.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Karen E Hart

Karen E. Hart

This decision was put on the record

OCT 13 2006

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

Penny S. Lowenthal
Penny S. Lowenthal

