

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>NINA AND REX MCGEHEE,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 46011</p>
<p>AMENDED ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 27, 2007, Karen E. Hart and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Charles T. Solomon, Esq. Petitioners are protesting the 2005 actual value of the subject property.

Subject property is described as follows:

**365-375 Colorado Boulevard (formerly 380-390 Harrison Street)
Denver County Schedule Number 05121-16-001-000**

The subject property is a 2,119 square foot residential duplex built in 1939 on a 9,160 square foot site fronting a high-traffic street. Respondent assigned an actual value of \$424,400.00. Petitioners are requesting an actual value between \$308,500.00 and \$350,000.00.

Both parties presented sales comparison analyses based on current use as a duplex. Petitioners presented an indicated value of \$355,000.00. Respondent presented an indicated value of \$360,500.00. Petitioners assert that the subject duplex was rented during the base period and remains viable as an income-producing property. However, the ongoing development of the neighborhood supports the contention that a reasonable buyer would purchase the property with the intent of developing it.

Respondent asserts that the highest and best use of the site is redevelopment as a three-unit dwelling, which is allowed by zoning. The neighborhood is in transition, and the subject site as vacant carries a higher value than the site with its current improvement. The typical buyer would purchase the subject property for the site's development potential. The Colorado Supreme Court decision in **Board of Assessment Appeals v. Colorado Arlberg Club** 762 P.2d 146 (Colo. 1988) found that: "...reasonable future use of a property may be considered in determining its present fair market value for tax assessment purposes."

Respondent presented a sales comparison analysis based on a highest and best use as vacant land. Four sales ranged in time-adjusted sales prices from \$56.00 to \$72.00 per square foot. After adjustments were made, the sales ranged from \$53.00 to \$68.00 per square foot for an indicated value of \$60.00 per square foot or \$549,600.00. The Board finds that Respondent's 20% adjustment for traffic influence is low, and recalculation of all comparables with a 30% adjustment results in a range of \$48.00 to \$68.00 per square foot. Sale 1 (\$48 per square foot) is given the most weight as it sold within the base period and time adjustments for the other three sales are considered excessive in light of their relationship to September 11, 2001 and subsequent market instability. Petitioners presented four sales also based on a highest and best use as vacant land. An adjustment grid was not included. Respondent's adjustments to Petitioners' sales resulted in a range of \$53.00 to \$69.00 per square foot. Petitioners' Sale 2 is given the most weight due to its proximity to the subject and is recalculated to \$52.00 per square foot based on a 30% traffic adjustment. The mid-point value of Respondent's and Petitioners' recalculated comparable sales (\$50.00 per square foot) indicates a value of \$458,000.00.

Respondent presented a computer-generated appraisal model of the subject site: the 2005 assigned value was \$424,400.00, with \$423,400.00 allocated to land and \$1,000.00 allocated to the improvements.

The Board finds that the applicable case law supports Respondent's valuation of the subject property according to its reasonable future use. Based on this finding, the Board was not able to place any weight on either Petitioners' or Respondent's market approach based on current use.

The Board's recalculation of Respondent's and Petitioners' sales results in a value of \$458,000.00. This value supports the Respondent's assigned value of \$424,400.00.

ORDER:

The petition is denied.

APPEAL RIGHTS:

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

DATED and MAILED this 7th day of May 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

MAY 04 2007

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

Diane M. Fechisin
Diane M. Fechisin



**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 46011

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NINA AND REX MCGEHEE,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

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The subject property is a 2,119 square foot residential duplex built in 1939 on a 9,160 square foot site fronting a high-traffic street. Respondent assigned an actual value of \$424,400.00. Petitioners are requesting an actual value between \$308,500.00 and \$350,000.00.

Petitioners assert that the subject duplex was rented during the base period and remains viable as an income-producing property. An independent appraisal based on current use was presented, but could not be considered because the appraiser was not present for questioning and cross examination.

Respondent asserts that the highest and best use of the site is redevelopment as a three-unit dwelling, which is allowed by zoning. The neighborhood is in transition, and the subject site as vacant carries a higher value than the site with its current improvement. The typical buyer would purchase the subject property for the site's development potential. The Colorado Supreme Court decision in **Board of Assessment Appeals v. Colorado Arlberg Club** 762 P.2d 146 (Colo. 1988)

found that: "...reasonable future use of a property may be considered in determining its present fair market value for tax assessment purposes."

Respondent presented a sales comparison analysis based on a highest and best use as vacant land. Four sales ranged in time-adjusted sales prices from \$56.00 to \$72.00 per square foot. After adjustments were made, the sales ranged from \$53.00 to \$68.00 per square foot for an indicated value of \$60.00 per square foot or \$549,600.00. The Board finds that Respondent's 20% adjustment for traffic influence is low, and recalculation of all comparables with a 30% adjustment results in a range of \$48.00 to \$68.00 per square foot. Sale 1 (\$48 per square foot) is given the most weight as it sold within the base period and time adjustments for the other three sales are considered excessive in light of their relationship to September 11, 2001 and subsequent market instability. Petitioners presented four sales also based on a highest and best use as vacant land. An adjustment grid was not included. Respondent's adjustments to Petitioners' sales resulted in a range of \$53.00 to \$69.00 per square foot. Petitioners' Sale 2 is given the most weight due to its proximity to the subject and is recalculated to \$52.00 per square foot based on a 30% traffic adjustment. The mid-point value of Respondent's and Petitioners' recalculated comparable sales (\$50.00 per square foot) indicates a value of \$458,000.00.

Respondent presented a computer-generated appraisal model of the subject site: the 2005 assigned value was \$424,400.00, with \$423,400.00 allocated to land and \$1,000.00 allocated to the improvements.

The Board finds that the applicable case law supports Respondent's valuation of the subject property according to its reasonable future use. The Board's recalculation of Respondent's and Petitioners' sales results in a value of \$458,000.00. This value supports the Respondent's assigned value of \$424,400.00.

ORDER:

The petition is denied.

APPEAL RIGHTS:

Petitioners 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 10th day of April 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

APR 09 2007

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

Diane M. Fechisin

Diane M. Fechisin

