

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 56768
<hr/> Petitioner: WALLACE UNRUH AKA WALLY, v. Respondent: DOUGLAS COUNTY BOARD OF EQUALIZATION.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on May 31, 2012, Gregg Near and James R. Meurer presiding. Petitioner appeared pro se. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**820 N. Wilcox Street, Castle Rock, Colorado
Douglas County Schedule No. R0081883**

The subject is a 3,314 gross square foot, wood frame office building located just north of the downtown area in Castle Rock. The subject is proximate to the Interstate 25 and Wolfensberger Road interchange. The building was constructed in 1976; lot size is 9,409 square feet; all utilities are publically provided; and surrounding properties consist of commercial uses. The building is owner occupied with Petitioner's chiropractic clinic. The previous occupant was a restaurant and the building was vacant prior to purchase. Access to the building is considered circuitous given the configuration of North Wilcox Street at this location. The building was considered to be in fair condition as of the date of value given that the upper level and the former kitchen were not in compliance with Castle Rock's building code and could not be used by the owner until the deficiencies were remedied. Eliminating the second floor and kitchen space from the gross square footage of the building resulted in a useable square footage of 2,624 square feet which was the building area used in the valuation analysis.

Petitioner purchased the building in December of 2007 for \$450,000.00. Petitioner estimates that the cost to cure the remaining deficiencies in the building would approximate \$219,000.00.

Petitioner is requesting an actual value of \$231,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$459,201.00 for the subject property for tax year 2010.

Petitioner's witness, Mrs. Kendal Unruh, testified that Respondent's value was excessive given the condition and the lack of use of the two restricted areas within the building. Mrs. Unruh also testified that vehicular access to the building was extremely difficult given the inability to turn left into the property from North Wilcox Street. Petitioner's value was based on Respondent's appraised value minus the \$219,000.00 cost to cure.

Respondent presented the following indicators of value:

Cost:	\$507,987.00
Market:	\$459,000.00
Income:	\$421,000.00

Based primarily on the market approach, Respondent presented an indicated value of \$450,000.00 for the subject property and is recommending that the assigned value be reduced to that amount.

Respondent's witness, Mr. Robert D. Sayer, a Certified General Appraiser with the Douglas County Assessor's Office, presented a cost approach reflecting a land value of \$30.00 per square foot or \$282,270.00 for the subject lot. Replacement costs were based on the Marshall Valuation Service Manual and resulted in an estimated depreciated replacement cost of \$225,717.00, including site improvements. Respondent's witness concluded to a value of \$507,987.00 for the subject via the cost approach.

Respondent's witness presented a market approach referencing eight sales including the sale of the subject. The comparables ranged in sales price from \$157.56 to \$280.33 per square foot and in dates of sale from March of 2006 to May of 2008. Respondent concluded to an adjusted value of \$175.00 per square foot based on 2,624 useable square feet resulting in a value via the market approach of \$459,200.00.

Respondent's witness also presented an income approach resulting in a value of \$420,660.00 for the subject. Six rent comparables were included in the analysis. The appraisal provided by Mr. Sayer concluded to a \$15.00 per square foot triple net market rental rate, a 10% vacancy factor, a 5% expense factor, and an overall capitalization rate of 8.0%.

Respondent argued that the market value for the subject was best represented by the market approach and that the sale comparables used in the analysis were indicative of the market, including the sale of the subject during the base period. Respondent further argued that the inability to use the two restricted areas and the limited access to the building had been considered in the analysis and that the second story of the building was not taxed for 2010. Respondent did not consider the circuitous access to the building to be a major impediment.

Respondent presented sufficient probative evidence and testimony to show that the tax year 2010 valuation of the subject property was correct.

Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[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 in the hearing, the Board concludes that the comparable sales used in Respondent's market approach are reasonable and therefore most accurately reflect the market value for the subject. The Board further concludes that the purchase price of the subject during the base period supports Respondent's value and that deductions for the cost to cure the code deficiencies have been recognized in the value.

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-five 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-five days after the date of the service of the final order entered).

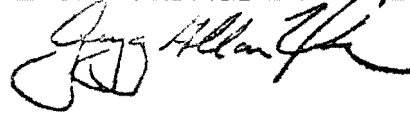
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 June, 2012.

BOARD OF ASSESSMENT APPEALS

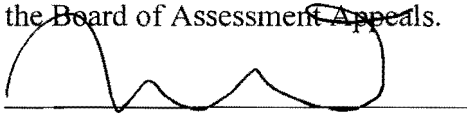


Gregg Near



James R. Meurer

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



Milla Crichton

