

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WILDCAT RENTALS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58501</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 14, 2012, Diane M. DeVries and MaryKay Kelley presiding. Ms. Sandra Haulman, co-owner, appeared pro se on behalf of Petitioner. Respondent was represented by Mr. David Frankel, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**616 East Grand Avenue, Fruita, Colorado
Mesa County Schedule No. 2697-174-00-033**

The subject property was purchased by Petitioner in 2008 for \$634,000.00 and operates as a rental business for landscaping use (tractors, trenchers, rototillers and miscellaneous items (tables/chairs and canopies). On 1.5 acre, it is comprised of three improvements totaling 7,975 square feet: a 4,160 square foot warehouse (wood and metal with plastic sheeting) built in 1994 as a pole barn (concrete floor with electricity on one-third, the remainder gravel flooring) and is used for equipment storage; a 1,911 square foot frame-over-adobe residence with mudsill foundation built in 1935 and converted to office use (heated with utilities); and a 1,904 square foot unheated residence built in 1935 and used for storage.

Petitioner is requesting an actual value of \$275,000.00 for the subject. Respondent assigned a value of \$446,850.00.

Ms. Haulman discussed the area’s reliance on natural minerals (uranium, oil shale, and natural gas) and its cyclical economy. The business originated in 2006 and thrived. A move to the

subject property in 2008 more than doubled space for the business, but the economy declined and the company's income decreased by 35% in 2008 and another 16% in 2010. Actual value should have decreased 50% accordingly.

Ms. Haulman presented one comparable sale comprised of two properties purchased in February of 2010 for a total of \$245,000.00 (same seller, same buyer). The first, at 620 East Grand Avenue, houses storage units. The second, at 836 East Grand Avenue, provides indoor and outdoor storage for rent.

Ms. Haulman presented one comparable sale at 859 East Grand Avenue. She acknowledged the Board's inability to consider either a listing or the property's late 2010 November sale due to statutory base period requirements.

Respondent presented the following indicators of value, reconciling at \$512,000.00 with primary weight on the income approach and secondary weight on the market approach.

Market:	\$576,000.00
Cost:	\$585,000.00
Income:	\$477,000.00

Respondent presented a market approach, concluding to a value of \$576,000.00. Respondent's witness, Mr. Steve Henderson, Certified Residential Appraiser, presented eight warehouse/office comparable sales. Due to their proximity to the subject, he assigned most weight to Sale 1 with an adjusted sale price of 572,701.00, Sale 2 with an adjusted sale price of \$506,000.00, and Sale 3 with an adjusted sale price of \$738,855.00. Sales 3 through 8, with adjusted sale prices from 493,500.00 to \$627,260.00, were considered with less weight.

Mr. Henderson presented a cost approach with a site value of \$521,500.00, total improvement value of \$63,460.00, and a final value of \$585,000.00. He gave this approach little weight due to the difficulty in determining depreciation for older buildings.

Mr. Henderson presented an income approach using a \$9.50 rental rate, a 10% vacancy rate, 25% expense ratio, and a 5% replacement reserves to estimate net operating income at \$47,730.00. He estimated a capitalization rate of 10% for an indicated value of \$477,000.00.

Mr. Henderson declined use of Petitioner's comparable sale because of its dissimilar use (mini storage) and because it transacted under duress (pending foreclosure). He referenced the definition of market value, which assumes that neither buyer nor seller is "under undue duress" (The Dictionary of Real Estate Appraisal 4th Ed.).

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2011.

The Board acknowledges the cyclical nature of the subject area's economy. However, this does not, in and of itself, translate to a lower assessed value. Colorado Statute requires consideration

of the three approaches to value. Section 39-1-103(5)(a), C.R.S. Respondent adhered to this requirement, and while Petitioner offered one comparable sale, the Board notes that one sale does not make a market, and the fact that it transacted under duress places its reliability as a comparable in question. Petitioner did not provide any probative testimony or evidence convincing the Board that the assigned value should be reduced.

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 23rd day of March, 2012.

BOARD OF ASSESSMENT APPEALS

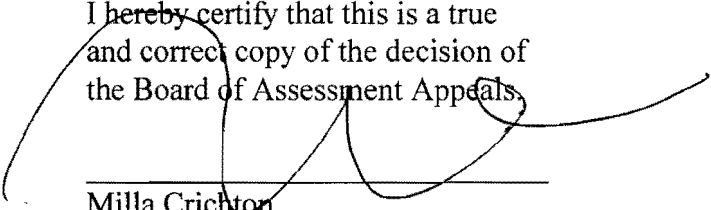


Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

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



Milla Crichton

