

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 61096

Petitioner:

RON R. AND JANECE L. CULVER,

v.

Respondent:

**MONTROSE COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 26, 2013. Diane M. DeVries and MaryKay Kelley presiding. Ronald R. Culver appeared pro se on behalf of Petitioners. Respondent was represented by Carolyn Clawson, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2011.

Subject property is described as follows:

**710 North Townsend Avenue, Montrose, Colorado
Montrose County Schedule No. R0650698**

The subject property is a 1,912 square foot restaurant located on an 11,367 square foot highway frontage road site. It was built in 1955 with a 2001 addition and is in fair condition.

Respondent assigned an actual value of \$162,500 for tax year 2011. Petitioners are requesting a value of \$65,000.

Mr. Culver reported purchasing the subject property in July of 2011 for \$65,000 following a year on the market at \$99,000. Despite the transaction occurring after the assessment date of January 1, 2011, he argued that it proved the assigned value was unrealistic.

Mr. Culver presented purchase and rental data post-base period, none of which is admissible for determining tax liability for tax year 2011.

Respondent presented the following indicators of value:

Market	\$165,000
Income	\$158,000

Respondent presented a value by the market approach at \$165,000. Respondent's witness, Brook Moyer, Licensed Appraiser, presented four comparable sales ranging in sale price from \$140,000 to \$292,500 and in size from 1,228 to 1,800 square feet. After adjustments were made for declining values, size, construction quality and condition, basement and air conditioning, the sales ranged from \$159,869 to \$167,209. Relying on Sale One (adjusted sale price of \$167,209) due to similarity in age and location, Mr. Moyer concluded to a value of \$165,000.

Mr. Moyer presented an income approach to derive a value of \$158,000. He used a time-trended lease rate of \$9.30 per square foot based on six market rents in the Central Montrose area. He applied a 30% expense ratio secured from actual lease respondents, and he used a vacancy rate of 5%, typical for smaller properties. Mr. Moyer extracted two capitalization rates, one of 5.04% based on six sales and the other at 9.00% reported by the Real Estate Investment Survey, concluding to 7.50%.

Mr. Moyer put primary weight on the market approach, reconciling to a value of \$165,000.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2011 valuation of the subject property was correct.

Colorado Statute requires consideration of the cost, market and income approaches to value, Section 39-1-103 (5)(a), C.R.S. While Respondent used income and market approaches, Petitioners presented no data that could be considered by the Board. Market data occurring after the valuation date of June 30, 2010 is inadmissible for determining 2011 taxes.

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 for assessment of the county wherein the property is located, may petition the Court of

Appeals for judicial review according to the Colorado appellate rules and the provision 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).

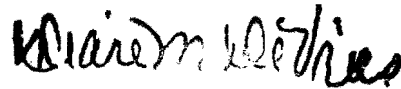
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

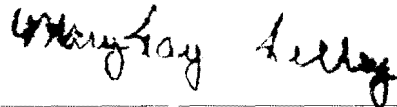
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 3rd day of July, 2013.

BOARD OF ASSESSMENT APPEALS

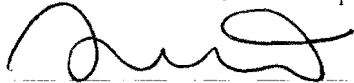


Diane M. DeVries



MaryKay Kelley

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



Milla Lishchuk

