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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WELLINGTON RESOURCES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 63101</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on September 9, 2014, MaryKay Kelley and Sondra W. Mercier presiding. Mr. Hal M. Sears, Managing Member, appeared *pro se* on behalf of Petitioner. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**17218 South Golden Road, Golden, Colorado
Jefferson County Schedule No. R449221**

The subject is a 4,516-square-foot automotive lube-shop and car wash that is situated on a 0.598-acre site. The building is described to include 1,740 square feet of above ground, three-bay shop space; a 1,456-square-foot single-bay car wash; and, 1,320 square feet of walk-in-pit basement space. The building was constructed in 2007 and was described as being in “average to good” condition.

Petitioner is requesting an actual value of \$515,000 for the subject property for tax year 2013. Respondent assigned a value of \$896,000 for the subject property for tax year 2013.

Petitioner presented the following indicators of value:

| | |
|---------|-------------|
| Market: | \$515,000 |
| Cost: | Not applied |

Income: \$575,000

Mr. Sears called Mr. Mike Walter of 1st Net Real Estate Services, Inc. as Petitioner's first and only witness. To value the lube shop portion of the subject (1,740 square feet of above ground and 1,320 square feet of basement), Mr. Walter presented seven sales of oil change/lube shop properties ranging in sale price from \$98.20 to \$306.25 per square foot and in size from 2,240 to 5,499 square feet. Sale 1 was identified as the re-purchase of the subject from the lender in October 2011. Sale 2 was eliminated at hearing due to a date of sale beyond the base period. Sales 4, 5, 6 and 7 were sold as a going concern, and were believed to include personal property and business value as part of the sales price.

After adjustments were made, the six remaining sales ranged from \$113.66 to \$214.38 per square foot. Mr. Walter concluded to a going concern value of \$600,000. Petitioner's witness placed a contributory value of \$150,000 on the business, which was then deducted from the going concern value. This resulted in a real property value of \$450,000 for the oil change/lube portion of the building, equal to \$147.00 based on 3,060 square feet of shop space.

To value the car wash portion of the property, the witness presented five additional sales of car wash properties that ranged in price from \$96.19 to \$136.14 per square foot, and in size from 2,703 to 6,465 square feet. After adjustment, the sales indicated a range from \$66.14 to \$119.60 per square foot. Mr. Walter concluded to a value of \$125,000 for the car wash, and then deducted \$25,000 for personal property (car wash equipment) to conclude to a real property value of \$100,000 for car wash space.

Although the market approach indicated a value of \$550,000 for the subject, Mr. Walter concluded to a value of \$515,000 based on the October 2011 purchase at \$540,100 less personal property of \$25,000. The total value of the subject was concluded as \$515,000, rounded, using the market approach.

Petitioner's witness presented an income approach to derive a value of \$575,000 for the subject property. Four comparable rental properties were presented; however, Rent Comparable 4 was eliminated at the hearing as having transacted beyond the base period. Mr. Walter applied a rental rate of \$14.50 per square foot, net of expenses, to the 3,060 square feet of shop space. Deductions included a vacancy and collection loss of 7% of potential gross rental income; and operating expenses of 8% of effective gross income. The net operating income was calculated as \$37,963, which was then capitalized at a rate of 8%, to indicate a value of \$474,538 for the shop portion of the subject. An additional \$100,000 was added for the car wash resulting in a total real property value of \$575,000, rounded.

Respondent presented the following indicators of value:

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|---------|-------------|
| Market: | \$963,900 |
| Cost: | \$900,000 |
| Income: | \$1,120,200 |

Ms. Klymkowsky, attorney representing Respondent, called Ms. Darla Jaramillo, Certified General Appraiser with the Jefferson County Assessor's Office, as Respondent's first and only witness.

Ms. Jaramillo relied on the analysis of four vacant land sales to conclude to a land value for the subject site of \$17.00 per square foot or \$442,646. The witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject improvements of \$457,418, resulting in a value of \$900,000, rounded, via the cost approach.

For the market approach, Respondent's witness presented five comparable sales ranging in sale price from \$187.32 to \$390.49 per square foot and in size from 4,900 to 8,707 square feet. All five sales were built for automotive use as tire stores and were adjusted upward by \$150,000 for the car wash. After adjustment, the sales indicated a range from \$260.42 to \$388.19 per square foot. Ms. Jaramillo concluded to a value of \$315.00 per square foot or \$963,900 based on the market approach.

Ms. Jaramillo used the income approach to derive a value of \$1,120,200 for the subject property. Based on proprietary rental data, the witness applied a rental rate of \$27.50 per square foot to the subject. Ms. Jaramillo deemed that no deduction was required for vacancy, as a majority of the leases of this property type were long term, at 10 years or greater. A deduction of 2% was applied to reflect the owner's management expenses. Net operating income was calculated as \$82,467, then capitalized at a rate of 8.5%, to produce a value of \$970,200 for the shop area. An additional \$150,000 was added for the car wash, bringing the total property value to \$1,120,200 using the income approach.

Ms. Jaramillo's appraisal indicated a value of \$1,000,000; however, Respondent is deferring to the Board of Equalization's assigned a value of \$896,000 for the subject property for tax year 2013.

Petitioner contends that the location of the subject is inferior to many other automotive centers based on the low daily traffic count. Petitioner also notes that the overall lube and tube business had changed in recent years, with auto dealerships and tire stores offering similar services at low-cost or even no-cost to the customer; and auto manufacturers were no longer recommending oil changes on as frequent a basis.

Respondent maintains that the market does not distinguish value between properties offering different automotive services (tire store, car wash, lube service) and that locational attributes for this property type go well beyond the daily traffic count.

After consideration of all three approaches, the Board finds that the market approach provides the best indication of value for the subject. The Board was convinced that general economic trends have not been favorable to the lube shop and car wash business, resulting in a decline in both business and real estate values. While it is incorrect to consider the going concern value of the subject, the general profit and success of a specific location of this type is closely tied to the value that is placed on the real estate. This was shown not only to be true for the subject, which went into

foreclosure during the base period, but also by a similar property directly across the street that went out of business and was offered for sale during that same time period. The Board was also convinced that the larger comparable properties presented by Respondent were superior based on the potential for additional services offered.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

In the case of the subject, Petitioner placed total reliance on the actual sale of the subject in October 2011 for \$540,100, which was then adjusted downward by \$25,000 for personal property. As the greatest reliance is reasonably given to the market approach, the Board gives consideration to each of the sales provided by Petitioner, which indicates a value towards the upper end of the range of oil change/lube shop sales, and towards the lower end of the car wash sales. A real property value of \$550,000 is well supported by the data and analysis, based on a value of \$450,000 for the oil change/lube shop portion of the subject and \$100,000 for the car wash.

Petitioner's comparison of the traffic count of the comparable sales was persuasive to establish that the subject's location was inferior to many automotive properties.

The Board concludes that the 2013 actual value of the subject property should be reduced to \$550,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$550,000.

The Jefferson County Assessor is directed to change his/her records accordingly.

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

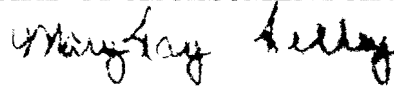
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 September, 2014.

BOARD OF ASSESSMENT APPEALS

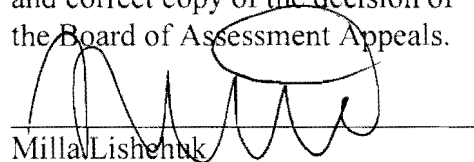


MaryKay Kelley



Sondra Mercier

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



Milla Lishchuk

