

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 64122**

Petitioner:

**ROBERT L. OLSON,**

v.

Respondent:

**MONTROSE COUNTY BOARD OF  
COMMISSIONERS.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on September 8, 2014, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Michael W. Johnson, Agent. Respondent was represented by Carolyn Clawson, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2012.

Subject property is described as follows:

**Vacant Land  
Lot 6 S4, Alpine Bank Business Park  
Montrose County Schedule No. 3993-042-20-006**

The subject is a 53,176 square foot parcel of vacant land, zoned commercial, located at the northwest corner of Woodgate Road and Odelle Road in south Montrose. This location is one block east of S. Townsend Avenue, the primary commercial artery in the neighborhood.

Petitioner's agent presented the following indicators of value:

Market: \$298,000  
Cost: Not Applied  
Income: Not Applied

Based on the market approach, Mr. Johnson presented an indicated value of \$298,000 for the subject property.

Petitioner's agent presented five comparable sales ranging in sale price from \$250,000 to \$628,267 and in size from 30,408 to 107,352 square feet. After adjustments were made, the sales ranged from \$5.59 to \$7.39 per square foot of site area.

Adjustments were made to the sales for existing improvements, property rights, market conditions and commercial visibility. Sale 2, located within the parking lot of Home Depot, was adjusted downward \$70,000 for existing asphalt paving and then was adjusted upward 25% due to a deed restriction allowing the seller to approve any potential use. Sales 1, 3, 4 and 5, with sale dates in 2006, were adjusted downward 8% for a declining market during the valuation period. Sale 1 was considered 10% inferior to the subject in commercial visibility; Sale 2 was rated equal and Sales 3, 4 and 5 were adjusted downward 40% because they were superior in this respect. Mr. Johnson then gave greatest weight to Sales 1, 3 and 4 and concluded to a unit value of \$5.60 per square foot and a total property value of \$297,785.60 (\$298,000, rounded).

Mr. Johnson focused on the subject's location which he described as restricted from commercial visibility to the traffic flow on S. Townsend Avenue by intervening improvements consisting of the Alpine Bank building and a Sonic drive-in. Woodgate Road, the subject's primary frontage, is a residential artery without the level of traffic and commercial appeal.

Petitioner is requesting a 2012 actual value of \$298,000 for the subject property.

Respondent presented the following indicators of value:

Market:	\$465,000
Cost:	Not Applied
Income:	Not Applied

Respondent's witness Brook Moyer, a Certified General Appraiser, presented a market approach consisting of six comparable sales ranging in sale price from \$79,900 to \$628,267 and in size from 21,824 to 44,213 square feet. After adjustments were made, the sales ranged from \$8.22 to \$11.51 per square foot of site area.

Adjustments were made to the sales for existing improvements, property rights, market conditions, parcel size and commercial visibility. Respondent's Sale 5, the same transaction reported by Petitioner as Sale 2, was adjusted \$19,000 for the existing asphalt and upward 30% for the seller's deed restriction. Sales 1, 2, 3, and 4, with sale dates in 2006, were adjusted downward from 10% to 12% for a declining market during the valuation period. Sales 5 and 6, from 2010, were adjusted downward 2%. With the exception of Sale 6, all the other sales were adjusted downward 10% for better visibility. Mr. Moyer concluded to a unit value of \$8.75 per square foot and a total property value of \$465,000 (rounded).

Mr. Moyer noted the subject's location as between the primary commercial artery (Townsend) and the primary residential artery (Woodgate) in the neighborhood. Mr. Moyer also considered location to be the most significant influence on the value opinion.

Respondent assigned an actual value of \$465,000 to the subject property for tax year 2012 but is deferring to the CBOE value of \$440,300.

The Board sympathizes with Petitioner's witness regarding the limited sales data available but finds itself more concerned with the quality of the data and analysis than the quantity.

After careful consideration of the testimony and evidence presented at the hearing, the Board reviewed the sales presented by both parties. The Board agrees with the parties the primary difference in the two valuations is the consideration of location. For other factors the two experts were reasonably similar to one another in their conclusions. Four sales were used in common, one of which is located on a pad site with deed restrictions and is not reasonably comparable. The Board found Respondent's Sale 1 to have been most instructive. Respondent's Sale 1 is located west of the previously mentioned Home Depot and should therefore have less visibility, similar to the subject. Respondent's Sale 1 can be compared with Petitioner's Sale 5 as they are nearly equal in sale date, zoning and site size. Petitioner's Sale 5 fronts S. Townsend Avenue per testimony and should therefore have superior visibility. Petitioner's Sale 5 has a sale price of \$14.21/SF compared to Respondent's Sale 1 at \$11.00/SF. This simple pair suggests a visibility adjustment of 22.6% which is far different than Petitioner's estimate of 40%. Substituting this adjustment to Petitioner's Sales 3, 4 and 5 and applying the same market conditions adjustment, the corrected indications are: Petitioner's Sale 3-\$7.74; Petitioner's Sale 4-\$7.74; Petitioner's Sale 5-\$10.23 and Respondent's Sale 1, at \$10.21. The adjusted range of the sales is from \$7.74 to \$10.23 per square foot of site area. The CBOE value of \$440,300 represents a unit value of \$8.28 per square foot of site area that is supported by the evidence presented at the hearing.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2012 valuation of the subject property was incorrect.

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

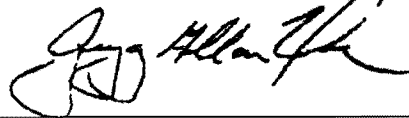
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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.

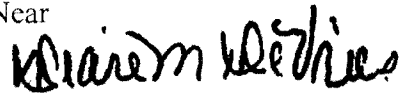
Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 23rd day of September, 2014.

**BOARD OF ASSESSMENT APPEALS**

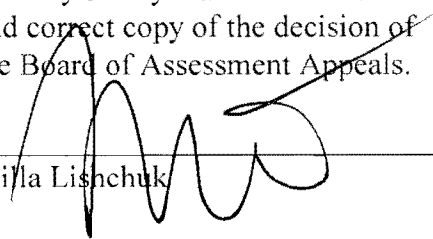


Gregg Near



Diane M. DeVries

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



Milla Lishchuk

