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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>THOMAS A. FOREMAN,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p> | |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Thomas A. Foreman Address: 2521 West 37th Avenue Denver, Colorado 80211 Phone Number: (303) 477-2232 E-mail: tomforeman@msn.com</p> | <p>Docket Number: 42888</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on April 7, 2003, MaryKay Kelley and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Maria Kayser, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2521 West 37th Avenue, Denver, Colorado
(Denver County Schedule No. 02291-02-024-000)**

Petitioner is protesting the 2003 actual value of the subject property, a one-story single family residence of brick construction containing 1,407 square feet of living area, a full basement and a two-car detached garage located in the Potter Highlands neighborhood northwest of downtown Denver.

ISSUES:

Petitioner:

Petitioner contends that the Respondent overvalued the subject property and he does not agree with the current value.

Respondent:

Respondent contends that the subject has been correctly valued based on the market approach.

FINDINGS OF FACT:

1. Mr. Thomas A. Foreman, Petitioner, presented the appeal on his own behalf.
2. Petitioner presented an indicated value of \$240,000.00 for the subject property.
3. Petitioner presented two sets of comparable sales: five provided by the City and County of Denver for 2003 assessment purposes; and five additional sales researched by Petitioner. The comparable sales ranged in sales price from \$213,500.00 to \$294,000.00 and in size from 1,050 to 1,553 square feet. Petitioner did not make any adjustments to the sales. He calculated the average adjusted sales price of the five comparable sales used by the City and County of Denver for 2003 assessment purposes at \$254,677.00 and the average assessed value of the five additional sales he researched at \$259,480.00.
4. Referring to the three comparable sales shown in Respondent's Exhibit 1, page 6, Mr. Foreman testified that it is inconsistent for Respondent to continue changing their comparable sales.
5. Mr. Foreman testified that Respondent's witness did not physically inspect the inside of the subject property as indicated in paragraph 8 of the Appraiser's Certification shown on page 14 of Respondent's Exhibit 1.
6. Petitioner is requesting a 2003 actual value of \$240,000.00 for the subject property.
7. Respondent's witness, Mr. Richard Armstrong, a Certified Residential Appraiser with the Denver County Assessor's Office, presented an indicated value of \$320,900.00 for the subject property based on the market approach.
8. Respondent's witness presented three comparable sales ranging in sales price from \$271,900.00 to \$303,000.00 and in size from 1,285 to 1,592 square feet. After adjustments were made, the sales ranged from \$320,950.00 to \$355,300.00.

9. Mr. Armstrong testified that the subject property is located in the Potter Highlands area between Zuni Street and Federal Boulevard and 29th Avenue to 38th Avenue. The area has some historical and architectural significance.

10. Mr. Armstrong testified that he did not request permission for an interior inspection of the subject property. He relied on information contained in the sales brochure provided by the listing agent. The brochure described the property as being in very good or above average in condition.

11. Mr. Armstrong testified that the five original comparable sales that the City and County of Denver presented were based on mass appraisal methods. Since this is a new hearing, he is allowed to choose three new comparable sales. One of these sales was the subject property which he felt was the best comparable.

12. Mr. Armstrong testified that Comparable Sale 1, which is the subject property, required only one adjustment for time, which he calculated to be .26927% per month. This sale occurred in August 2000, outside the base period. As to the quality of construction adjustment, Mr. Armstrong testified that some properties are built to higher standards and he believes the subject was an above average, Class B construction whereas Sales 2 and 3 were class C construction.

13. Mr. Armstrong testified that Petitioner's comparable sale at 3325 Grove Street is not a good comparable as it is an attached duplex; 3337 Decatur Street is not a bad comparable but is only 1,114 square feet and is on a small lot.

14. Mr. Armstrong testified that he disagrees with Petitioner's value of \$240,000.00 since it was derived through averaging.

15. In cross-examination, Mr. Armstrong testified that he made adjustments of \$2,500.00 for site size difference, 10% for quality of construction, \$40.00 per square foot for living area, \$20.00 per square foot for basement size, \$10.00 per square foot for basement finish and \$13.00 per square foot for condition.

16. Respondent assigned an actual value of \$320,900.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. Pursuant to §39-1-103 (5) (a) C.R.S., "The actual value of residential real property shall be determined solely by consideration of the market approach to appraisal." Comparable sales should be adjusted for differences in physical characteristics, not just analyzed for average price per square foot. Although Petitioner presented 10 comparable sales, the time adjusted sale prices or the assessed values were only averaged into a value. Due to the lack of adjustments, the Board could

give little weight to Petitioner's sales because averaging sales prices/assessed values does not follow any accepted appraisal principles required to form an opinion of value.

3. The Board carefully reviewed Respondent's comparable sales. While the Board may agree with Respondent's use of the subject as a comparable, the sale date was well outside the base period and required a large time adjustment. The Board believes that other sales similar to the subject occurred within the base period and may have been more appropriate. The Respondent relied upon a sales brochure to obtain information about the subject property. The Board was influenced by Petitioner's testimony that the subject property may not have been described correctly in the sales brochure. The Board recognizes the importance of an interior inspection or owner verification of property characteristics and maintains that either action would have rendered a more accurate appraisal.

4. The Board was not convinced that Comparable Sales 2 and 3 were of lesser quality construction. The photograph of Comparable Sale 3 shows that the property is very similar to the subject in style, use of brick, front porch and dormer roofline.

5. The Board reviewed the range of adjusted values shown in Respondent's market grid and adjusted Comparable Sales 2 and 3 by the appropriate quality of construction adjustment. The Board also carefully reviewed Petitioner's sales and adjusted for differences based on the limited information presented.

6. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$320,900.00

ORDER:

The Petition is denied.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 30th day of April, 2004.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Steffen A. Brown

Steffen A. Brown

This decision was put on the record

APR 30 2004

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

Penny S. Lowenthal
Penny S. Lowenthal

