

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203		
Petitioner: DONEAL BERNSTEIN, v. Respondent: DENVER COUNTY BOARD OF EQUALIZATION.		
Attorney or Party Without Attorney for the Petitioner: Name: Ed Bernstein Address: 1329 Yates Street Denver, Colorado 80204 Phone Number: (303) 534-6763		Docket Number: 43538
ORDER		

THIS MATTER was heard by the Board of Assessment Appeals on December 6, 2004, Rebecca Hawkins and MaryKay Kelley presiding. Petitioner was represented by his father, Ed Bernstein. Respondent was represented by Alice Major, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1329 Yates Street, Denver, Colorado
(Denver County Schedule No. 05062-10-016-000)**

The subject property is a 744 square foot two bedroom, one bathroom house with a garage built in 1946.

ISSUES:

Petitioner:

Petitioner contends that the subject property was incorrectly valued for tax year 2003, that neither physical inadequacies nor neighborhood code violations were considered, and that the increase in assigned value far exceeded the cost of living.

Respondent:

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

FINDINGS OF FACT:

1. Petitioner Doneal Bernstein, owner of record, lives out-of-state. His father, Ed Bernstein occupies the property, pays all expenses and taxes, and presented the appeal on behalf of Petitioner.

2. Respondent's Motion to Dismiss was denied.

3. Mr. Bernstein did not present any comparable sales. He testified that the Respondent's appraisal did not reflect the subject property's old furnace, water heater, kitchen, and flooring, no storm windows, and a damp crawl space partially mitigated with plastic.

4. The Petitioner testified that code violations, including noise, a rusted vehicle, oil residue, and easement violations, existed on properties near the subject and should have been addressed in Respondent's appraisal report.

5. Mr. Bernstein testified that the subject property's assessed value increased 27.63 percent while the cost of living increased only one to two percent per year.

6. Petitioner is requesting a 2003 actual value of \$130,000.00 for the subject property.

7. Respondent's witness, Richard Armstrong, a Certified Residential Appraiser with the Denver County Assessor's Office, presented an indicated value of \$153,000.00 for the subject property based on the market approach.

8. Respondent's witness performed an exterior inspection of the subject property and presented three comparable sales ranging in sales price from \$139,900.00 to \$162,500.00 and in size from 713 to 988 square feet. After adjustments were made, the sales ranged from \$142,193.00 to \$162,664.00.

9. Mr. Armstrong testified that the Denver County Assessor's Office does not have jurisdiction over neighborhood code violations, and therefore, are not addressed in the appraisal report. He further testified that Respondent's comparable sales are located near the subject property and are similarly affected by the code violations.

10. Mr. Armstrong testified, in cross-examination, that he assumed the subject property was in average condition and that physical deficiencies might have affected value.

11. Respondent assigned an actual value of \$152,900.00 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 Colorado Revised Statutes, residential property must be valued based on market sales but Petitioner did not present any independent market data to substantiate his request for a reduction in value. The Board recommends that Petitioner provide access to the Respondent so that inferior condition can be documented.

3. The Board finds that the Respondent's selection of comparable sales near the subject property adequately address adverse neighborhood influences but agrees that Petitioner's complaints regarding code and zoning violations should be reported elsewhere.

4. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$152,900.00 for tax year 2003.

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 15th day of January 2005.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca Hawkins

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

JAN 14 2005

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

