

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 49137**

Petitioner:

**ROBERT LEE & MARY JEANNE KESSLER,**

v.

Respondent:

**DENVER COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on December 4, 2008, Diane M. DeVries and Lyle D. Hansen presiding. Robert Lee Kessler appeared pro se for Petitioners. Respondent was represented by David V. Cooke, Esq. Petitioners are protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**4130 South Narcissus Way, Denver, CO  
Denver County Schedule No. 07054-18-021-000**

The subject is a two-story single-family residence of brick construction with a total of 3,783 square feet gross living area on the main and upper levels. There is a 1,883 square foot unfinished basement. The residence has a total of four bedrooms and three baths on the main and upper floors. There is a three-car attached garage. The residence is situated on a 30,900 square foot lot.

Petitioners presented an indicated value of \$477,840.00 for the subject property.

Petitioners presented no appraisal in support of the indicated value. Petitioners presented three comparable sales ranging in sales price from \$387,000.00 to \$410,000.00 and in size from 2,600 to 3,178 square feet. No adjustments were made.

Mr. Kessler testified that his residence incurs adverse influence from two sources; traffic noise from nearby Interstate 25, and from the adjacent swimming and tennis private club. Petitioners provided evidence and testimony as to noise levels experienced at the subject property from the interstate. Mr. Kessler testified that noise emanated from the adjacent swim and tennis facility along with trash tossed over the wood fence separating the two properties. Mr. Kessler testified that when tennis tournaments were held at the private facility, the noise emanated from loud speakers used during the events. Mr. Kessler testified that his property has received no upgrades in the kitchen or bath areas and that the kitchen has incurred some deterioration of condition through continued usage over the years to the cabinets, countertops, and floor areas. Mr. Kessler testified that no physical damage to the residence has resulted from expansive clay soils but that damage has occurred to the porch foundation and to the concrete sidewalk.

Petitioners contend that a 5% downward adjustment is necessary to reflect the adverse traffic noise from the interstate, a 5% downward adjustment is necessary to reflect the adverse influence from the adjacent swim and tennis facility, and a 15% downward adjustment is necessary for physical condition.

Petitioners are requesting a 2007 actual value of \$477,840.00 for the subject property.

Respondent presented an initial indicated value of \$605,000.00 for the subject property based on the market approach. After receiving information on the interior physical condition as indicated by Petitioners, Respondent presented a revised indicated value of \$560,000.00 for the subject property.

In the initial appraisal report, Respondent presented four comparable sales ranging in sales price from \$450,000.00 to \$535,000.00 and in size from 2,868 to 3,206 square feet. After adjustments were made, the sales ranged from \$581,938.00 to \$639,280.00.

Respondent's appraiser testified that no adjustment was necessary for traffic noise from Interstate 25 since all four sales incurred comparable traffic noise. Respondent's appraiser testified that no adjustment was necessary for the adjacent location to the swim and tennis facility. The adverse influence from the facility was offset by the amenity of convenience through being located near that facility.

Respondent submitted a revised appraisal report that included the same comparable sales as the original appraisal report. The revised value conclusion was \$560,000.00. The revised appraisal report included the same adjustments as displayed on the original appraisal report but with the inclusion of an additional adjustment to the comparable sales for differences in the condition of the subject. The revised appraisal report included a downward adjustment to the comparable sales to reflect the physical condition of the subject property. This adjustment was accomplished to reflect the lack of upgrades to the kitchen and bath areas. After adjustments were made for condition along with the previous adjustments accomplished, the sales ranged from \$536,934.00 to \$586,280.00.

Respondent assigned an actual value of \$597,300.00 to the subject property for tax year 2007, but is recommending a reduction in value to \$560,000.00.

Sufficient probative evidence and testimony was provided to prove that the subject property was incorrectly valued for tax year 2007.

The Board gave no weight to Petitioners' Comparable Sale 1. While this is the same property as Respondent's Comparable Sale 1, Petitioners used an older sale date and sale price of the same property while Respondent utilized the more current sale date and sale price.

The Board finds Petitioners' Comparable Sale 2 at 4132 South Newport Way which sold April 2006 comparable to the subject and added it to the sales comparison analysis by including the same adjustment parameters that were applied to Respondent's comparable sales in Respondent's revised appraisal report. The concluded adjusted sale price for this comparable sale was \$516,740.00.

The Board gave no weight to Petitioners' Comparable Sale 3. The residence is a ranch design with no basement area. The residence also has several amenities requiring adjustment including a remodeled kitchen, a granite fireplace in the master suite, an enclosed spa room, a putting green, and an exercise room.

The Board finds Respondent's four sales comparable to the subject property and gave weight to all four in concluding a final value for the subject. The Board agrees with Respondent that the adverse traffic noise from the interstate highway had a similar impact upon the comparable sales and that no adjustment was necessary.

The Board agrees that an adjustment is warranted for the condition of the subject property, and agrees with Respondent's adjustments as presented in the revised appraisal report. The Board agrees with Petitioners that the adverse influence resulting from adjacency to the swim and tennis facility has a detrimental impact upon the value of his property. The Board concludes that the convenience of location near that facility was not enough of an amenity to off-set the adversity from noise. The Board concludes that a 5% downward adjustment is necessary to reflect this adversity. After the additional adjustment, Petitioners' comparable sale and Respondent's four comparable sales range in adjusted sales price from \$496,990.00 to \$559,780.00. With equal weight given to these five comparable sales, the Board concludes that the 2007 actual value of the subject property should be reduced to \$525,000.00.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$525,000.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$525,000.00.

The Denver County Assessor is directed to change his 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 CRS § 24-4-106(11) (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 of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (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).

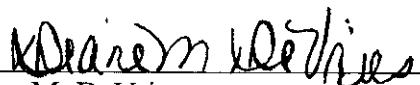
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

CRS § 39-8-108(2) (2008).

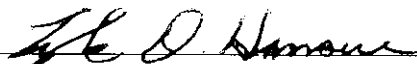
**DATED and MAILED** this 24<sup>th</sup> day of December 2008.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
Diane M. DeVries

This decision was put on the record

**DEC 23 2008**

  
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Lyle D. Hansen

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

  
\_\_\_\_\_  
Heather Flannery

