

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FLOYD KENLAY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49152</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 20, 2008, Karen E. Hart and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Michelle Bush, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3901 East 5th Avenue, Denver, Colorado
(Denver County Schedule No. 05015-35-007-000)**

The subject is a five-unit apartment building built in 1941 on an 11,563-square-foot site. The units have had no updating, and the building has considerable deferred maintenance.

Respondent assigned a value of \$501,500.00 for tax year 2007 but is recommending a reduction to \$465,000.00. Petitioner is requesting a value of \$287,090.00.

Based on the market approach, Petitioner presented an indicated value of \$287,090.00 for the subject property. He presented three comparable sales ranging in sales price per unit from \$50,000.00 to \$53,000.00. No adjustments were made to the sales. Petitioner's value is based on the average of the per-unit prices times the subject's five units.

Respondent's witness described the subject property as being at the end of its economic life. The Cherry Creek neighborhood is experiencing high-end residential redevelopment with movement eastward into the subject neighborhood. The immediate area is in transition with demolition and new construction evident. The subject's value lies in the land.

Respondent presented an indicated value of \$465,000.00 for the subject property based on the market approach. Respondent presented six comparable land sales ranging in sales price from \$63,000.00 to \$2,750,000.00 or price per square foot from \$22.01 to \$82.56. Improvements on all sales have been demolished. After adjustments were made, the sales ranged from \$31.31 to \$51.80 per square foot. The witness reconciled to \$40.00 per square foot or \$464,000.00 for land and \$1,000.00, minimal value, for the improvements.

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

The Board agrees that the subject property's highest and best use is its potential for redevelopment and therefore the value must be established using vacant land sales or improved property sales intended for demolition and redevelopment. Petitioner presented no sales of these types of properties for the Board to consider. Therefore the Board has relied on Respondent's sales and accepts Respondent's recommended value reduction.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$465,000.00.

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 16th day of December 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

DEC 15 2008

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

Heather Flannery
Heather Flannery

