

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JAMES L. EIBERGER,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49282</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 16, 2008, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Eugene Kottenstette, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**731 South Downing Street, Denver, Colorado
(Denver County Schedule No. 05143-03-030-000)**

The subject property is a 1,068-square-foot brick bungalow with basement and detached garage built in 1918. Respondent assigned an actual value of \$425,200.00 for tax year 2007. Petitioner is requesting a value of \$331,200.00.

Petitioner did not present an independent appraisal, rather commenting on Respondent’s comparable sales.

Petitioner argued that the home’s deficiencies and dated interior were not considered, including: structural issues, deteriorating exterior brick, roof leaks and damaged trim, mold; unfinished basement with exposed wiring and pipes, water intrusion, crumbling brick without insulation; and original windows. The main floor, undergoing renovation during the base period, was in less than average condition. The kitchen, dating to the 1970’s or 1980’s, had damaged

countertops and asbestos flooring. Because the main floor bathroom was gutted, the only operational bathroom was in the basement with a ceiling height of 5'6", shower height of 5'3", and minimal finish.

Petitioner's requested value was based on the tax year 2005 actual value of \$310,000.00 plus an estimated market appreciation. Petitioner's method of establishing value is not an acceptable method of establishing market value either in commonly recognized appraisal practice or as required by state statute. The value of residential property for tax year 2007 must be based on the market approach, considering sales of comparable properties occurring between January 1, 2005 and June 30, 2006. The Board gave no weight to Petitioner's requested value.

Based on the market approach, Respondent's witness presented an indicated value of \$480,000.00. Three comparable sales were presented, ranging in sale price from \$490,000.00 to \$527,000.00 and in size from 1,301 to 1,475 square feet. After adjustments were made, the sales ranged from \$480,245.00 to \$498,183.00.

Petitioner contested several issues: lot size, garage size, Sale 1's kitchen remodeling, and Sale 3's remodeling. The Board finds Respondent's 5,454 square foot lot size, based on a recorded plat, is more reliable. The Board agrees with Respondent's comparison of two-car garages to the subject's two-car garage, since functional utility is the determining factor in marketability. The Board finds Sale 1's remodeled kitchen to be of similar vintage to the subject's 1970/1980's kitchen and does not warrant an adjustment. The Board agrees that Sale 3 had been remodeled and agrees with Respondent's \$30,000.00 adjustment for the condition.

Respondent's witness based "average" condition for the subject property prior to an interior inspection in December of 2008 which found a remodeled main floor and 95% basement finish. Petitioner contended that both were completed after the base period. Respondent's witness, therefore, applied additional \$30,000.00 to \$50,000.00 adjustments to all comparable sales for a revised indicated value between \$430,000.00 and \$450,000.00.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007. The revised indicated value presented by Respondent's witness supports the assigned value of \$425,200.00.

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 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 31st day of December 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

DEC 31 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

