

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>NANCY HICKAM,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49431</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 12, 2008 and February 10, 2009, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by her husband, Kelle Hickam. Respondent was represented by James Burgess, Esq. Petitioner is protesting the 2007 actual value of the subject property.

Following the December 12, 2008 hearing, Respondent was ordered to prepare a new appraisal with the following data for the subject property: year built 1932, 806 square feet gross living area, fair condition, absence of a conventional heat source.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**14206 West 74th Place, Arvada, Colorado
(Jefferson County Schedule No. 209492)**

The subject property is an 806-square-foot brick house with an unfinished basement built in 1932 and moved to the current 1.1-acre site in Croke Acres in 1970. Other structures include a detached 900-square-foot garage and a 769-square-foot barn. Utilities include well and septic system. There is no conventional source of heat.

Respondent assigned a value of \$279,730.00 for tax year 2007 but is recommending a reduction to \$277,000.00. Petitioner is requesting a value of \$165,160.00.

Respondent's witness presented an indicated value of \$277,000.00 for the subject property based on a market analysis with four comparable sales ranging in sales price from \$220,000.00 to \$315,000.00. They bracket the subject in age, size, and acreage. The Assessor's office had no records identifying the condition of these sales, thus no condition adjustments were made. After adjustments for land and improvement size, age, construction, basement and garage, outbuildings, and heat source, the sales prices ranged from \$213,600.00 to \$298,600.00.

Petitioner's representative, Kelle Hickam, presented an indicated value of \$165,160.00 for the subject property for tax year 2007.

Mr. Hickam compared the subject's actual value of \$347.05 per square foot to the following actual values: four one-acre residential lots in Croke Acres averaging \$232.16 per square foot, all eleven homes in the subdivision averaging \$262.74 per square foot, three homes outside Croke Acres averaging \$222.44 per square foot, and Respondent's comparable sales averaging \$287.55 per square foot.

Mr. Hickam compared his property to the adjacent Lot 4, an identical house also relocated in 1970. It is in superior condition, and its actual value was \$165,160.00. Mr. Hickam estimated the assigned value for the subject property should be lower due to its inferior condition.

Petitioner did not provide the Board with either comparable sales or a market analysis. The value of residential properties must be based on the market approach. Market value is defined as "The most probable price . . . after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self interest, and assuming that neither is under undue duress." *3 Assessor's Reference Library: Land Valuation Manual 2.3* (2006) (quoting the Appraisal Institute). According to CRS § 39-1-103(5)(a), "The actual value of residential real property shall be determined solely by consideration of the market approach to appraisal." Comparing averaged assessed values is not an acceptable method of establishing market value for residential property either in commonly recognized appraisal practice or as required by state statute.

Petitioner relied on equalization in determining the value of the subject. "Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). Once the actual value has been determined, the Board can then consider an equalization argument if evidence is presented showing the Board that the assigned values of the equalization comparables were derived by appropriate application of the market approach to value and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gave little weight to the equalization argument presented by Petitioner.

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

The Board relied on the comparable sales presented by Respondent. The Board, acknowledging Petitioner's reliance on county records, is not convinced that all of Respondent's sales were in the subject's inferior condition. Petitioner's representative had viewed the interior of Sale 3, reporting superior condition with some upgrades and a finished mother-in-law detached dwelling unknown to Respondent. The higher end of Respondent's wide range of adjusted sales prices suggests either superior condition, updating/remodeling, or additional features. The Board finds that, due to evidence and testimony regarding the subject property's condition, the indicated value should be taken near the lower end of Respondent's adjusted range.

The Jefferson County Assessor's office should change its records for the subject property to indicate a year built of 1932 and a physical condition classification of fair.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$220,000.00.

The Jefferson 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 4th day of March 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

MAR 04 2009

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

Heather Flannery
Heather Flannery

