

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 49938

Petitioner:

ARLENE HIRSCHFELD

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 4, 2009, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner was represented by her husband, A. Barry Hirschfeld, who appeared pro se. Respondent was represented by Eugene J. Kottenstette, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**120 South Madison Street
(Denver County Schedule No. 05125-21-003-000)**

**126 South Madison Street
(Denver County Schedule No. 05125-21-004-000)**

The subject properties are 85-year-old frame bungalows on 6,250-square-foot lots. The area is in transition to upscale residential use including single family residences, both detached and attached, and condominiums. Both subject lots are zoned R-1, restricting new construction to single family dwellings or assemblage requiring re-zoning. The parties agree that existing use is interim with value in the land only.

Respondent assigned an actual value of \$542,400.00 for 120 South Madison Street and \$533,500.00 for 126 South Madison Street, but is recommending reductions to \$489,500.00 for each of the properties. Petitioner is requesting values of \$400,000.00 for each of the properties.

Mr. Hirschfeld did not present an independent market approach but rather discussed Respondent's comparable sales.

Respondent presented an indicated value of \$489,500.00 for each of the subject properties based on the market approach. Three comparable sales, zoned R-1 like the subject, were presented. They ranged in sales price from \$400,000.00 to \$482,000.00 and after adjustments from \$486,350.00 to \$491,051.00. Fourth and fifth sales, zoned R-2 and permitting two-unit attached construction, sold for \$500,000.00 and \$550,000.00 with adjusted sales prices being \$506,500.00 and \$550,000.00.

Mr. Hirschfeld considered Respondent's Sale 1 to be most representative of the subject properties, and his requested value of \$400,000.00 reflects its sales price without adjustments. He disagreed with Sale 1's 20% or \$80,000.00 location adjustment reflecting proximity to Colorado Boulevard, considering it arbitrary. Respondent's witness based the adjustment on high traffic street research. Petitioner provided no evidence to the contrary.

Mr. Hirschfeld argued that Sale 1 was purchased for future assemblage and that the sales price included a premium for assemblage potential. He questioned the comparability of Sale 2, purchased for future redevelopment, because of its adjacency to a 12-unit condominium project and proximity to First Avenue, which has experienced considerable redevelopment and carries a location premium. He discarded Sale 3 because of its inclusion in a ten-lot assemblage. He argued that Sales 4 and 5 were not comparable because of their R-2 zoning and because both have been re-developed with attached two-unit structures.

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

The Board finds that Respondent's Sales 1 through 3, all the same size with R-1 zoning and similarly located, provide convincing comparable data. All carry development potential and related premiums. Respondent's range of adjusted values is narrow, and Petitioner did not provide any convincing contrary evidence or testimony. The Board agrees with Respondent's recommended value of \$489,500.00 for each property.

ORDER:

Respondent is ordered to reduce the 2007 actual value of Schedule No. 05125-21-003-000 to \$489,500.00 and the 2007 actual value of Schedule No. 05125-21-004-000 to \$489,500.00.

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 1st day of June 2009.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

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

Heather Flannery
Heather Flannery

