

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JUAN F. FERNANDEZ,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 50826</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 2, 2010, MaryKay Kelley and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by David V. Cooke, Esq. Petitioner is requesting an abatement/refund of taxes on the subject properties for tax years 2005 and 2006.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

<u>Address</u>	<u>Denver County Schedule No.</u>
<b>361 South Newton Street, Denver, Colorado</b>	<b>05181-15-017-000</b>
<b>363 South Newton Street, Denver, Colorado</b>	<b>05181-15-018-000</b>
<b>367 South Newton Street, Denver, Colorado</b>	<b>05181-15-019-000</b>
<b>369 South Newton Street, Denver, Colorado</b>	<b>05181-15-020-000</b>
<b>371 South Newton Street, Denver, Colorado</b>	<b>05181-15-021-000</b>

Each subject property is a single family residence in an attached row-house development built in 1950. The residences are considered to be average quality and condition constructed of frame exterior. Each residence consists of one bedroom and one bathroom with 482 square feet of living area. There is on-site parking. Lot sizes range from 1,000 to 1,601 square feet.

Petitioner, Mr. Juan F. Fernandez purchased all five properties in 2001 for a total sales price of \$260,000.00. Each unit is a legally separate single family residence with a separate ownership right.

Petitioner testified that, due to the overall condition and high cost to upgrade each of the residences, it has been impossible to sell them individually. Respondent has consistently overvalued the subject properties and has not accounted for age, condition, and dated interiors affecting value.

Petitioner testified that there was a one-fifth interest in the parking site that was improperly conveyed due to a clerical error, which further affects the subject properties' valuations.

Petitioner did not present any comparable sales for consideration. He correlated to the value conclusion based on the original purchase price and lack of market appeal for the properties.

Petitioner is requesting an actual value of \$260,000.00 for the subject properties for each tax year 2005 and 2006.

Respondent presented an indicated value of \$95,000.00 for 361 Newton Street (largest lot size); \$93,000.00 for 363 Newton Street; \$93,000.00 for 367 Newton Street; \$93,000.00 for 369 Newton Street; and \$93,000.00 for 371 Newton Street for tax years 2005 and 2006.

Mr. Richard Mahoney, Certified Residential Appraiser with Denver County Assessor's office, presented five separate appraisal reports, one for each of the properties. The same sales were used for all five analyses.

Respondent presented three comparable sales ranging in sales price from \$114,000.00 to \$120,000.00 and in size from 584 to 725 square feet. After adjustments for differences in physical characteristics, the sales ranged in sales price from \$94,250.00 to \$104,625.00 for subject property 361 Newton Street and \$92,150.00 to \$102,525.00 for each of the remaining four subject properties.

Mr. Mahoney testified that the comparable sales are attached single family row-house residences. Exterior and interior inspections were conducted with the exception of an interior inspection of 361 Newton Street. The sales are considered to be the most similar in size, style, quality, and market appeal. All of the sales are located within a mile of the subject properties. The only difference in the value of each of the residences is the lot size: lot sizes ranging from 1,000 to 1,601 square feet.

Mr. Mahoney testified that each of the residences was valued separately, as they have separate ownership rights, and the analyses did not address any title or conveyance issues. The parking site was included in each analysis. The subject properties are not a multi-family dwelling and cannot be valued as an aggregate unit.

Respondent assigned an actual value of \$82,700.00 for 361 Newton Street; \$82,400.00 for 363 Newton Street; \$82,400.00 for 367 Newton Street; \$81,000.00 for 369 Newton Street; and \$82,400.00 for 371 Newton Street for tax years 2005 and 2006.

Respondent presented sufficient probative evidence and testimony to prove that the subject properties have been correctly valued for tax years 2005 and 2006.

Petitioner did not provide the Board with any comparable sales to refute Respondent's value conclusions. The subject properties are legally separate single family dwellings and can be sold separately. Therefore, the Board concludes Respondent correctly valued the subject properties as separate residences, not as an aggregate unit.

Respondent presented separate valuations for each of the residences and included the parking site in each valuation. According to the consolidated deed, interest in the parking sites was included in the legal descriptions. There was insufficient evidence to prove that Petitioner does not own the parking site, that there are any adverse factors as a result, or that the site should not be included in the valuations.

The Board affirms Respondent's assigned values of \$82,700.00 for 361 Newton Street; \$82,400.00 for 363 Newton Street; \$82,400.00 for 367 Newton Street; \$81,000.00 for 369 Newton Street; and \$82,400.00 for 371 Newton Street.

### **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 Section 24-4-106(11), C.R.S. (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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (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).

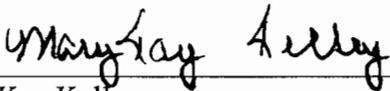
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 14<sup>th</sup> day of July 2010.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
MaryKay Kelley

  
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Debra A. Baumbach

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

  
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Heather Flannery

