

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ELLEN C. TEMBY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 51290</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 5, 2010 Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by David V. Cooke, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5515 Billings Street, Denver, Colorado
Denver County Schedule No. 00185-04-027-000**

The subject property consists of a ranch style single family residence built in 1973 on a 7,150 square foot site. The subject residence is 1,044 square feet in size.

Petitioner’s witness, Charles Ginsburg, a real estate investor and partner in Creative Ethical Investments, testified that as of June 30, 2006, many foreclosure homes were on the market in the subject property area.

Based on the market approach, Petitioner presented an indicated value of \$95,000.00 for the subject property. Petitioner presented no comparable sales.

Petitioner purchased the subject property from HUD on July 12, 2007. Petitioner testified that the subject property should be assumed to be in the same condition on January 1, 2007 as it was

at the time the Notice of Election and Demand was issued on November 3, 2006. Petitioner testified that she has completed approximately \$50,000.00 in repairs to the subject property. Petitioner characterized the property as uninhabitable due in part to missing water pipes in the basement.

Petitioner is requesting a 2007 actual value of \$95,000.00 for the subject property.

Respondent's witness, Creighton Angst, a Certified Residential Appraiser with the Denver County Assessor's office testified that she assumed the subject property was in below average condition on the assessment date and needed many cosmetic repairs and overall cleanup but no major structural repairs. No building permits have been pulled since purchase by Petitioner.

The subject property sold three times during the data collection period: \$163,000.00 on April 7, 2005, \$168,000.00 on July 22, 2005 and \$178,500.00 on November 11, 2005.

Respondent presented value of \$140,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$145,000.00 to \$165,773.00 and in size from 968 to 1,039 square feet. After adjustments were made, the sales ranged from \$136,400.00 to \$145,998.00.

The comparable sales were all located in the subject property's neighborhood. Ms. Angst did not include foreclosure sales in her analysis as they did not dominate the market during the base period, though they did at a later date. Ms. Angst analyzed 700 base period sales in the Montbello neighborhood and determined the market was stable with no time trending necessary. All of the comparables were in better condition than the subject property. Ms. Angst testified that she researched properties whose addresses were listed on Petitioner's Exhibit 1. The bank owned sales ranged from \$125,000.00 to \$150,000.00 and the non-bank sales ranged from \$155,000.00 to \$190,000.00. Ms. Angst pointed out that all of the sales were higher than Petitioner's requested value.

Respondent assigned an actual value of \$162,900.00 to the subject property for tax year 2007 but is recommending a reduction to \$140,000.00.

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

Petitioner argued that foreclosure sales dominated the market and therefore those types of sales should be used to value the subject property. Respondent agreed foreclosure sales were part of the market but did not dominate it until after the level of value date of June 30, 2006. The Board determined that there was insufficient evidence to prove that foreclosure sales were dominate during the base period; therefore the Board concluded they should not be given weight in determining the value of the subject property.

Petitioner also testified that the subject property was uninhabitable on the assessment date but no receipts, estimates, contracting agreements or building permits were presented to support her

estimate of repairs. The Board was convinced that Respondent adequately adjusted the comparable sales for their superior condition to the subject property. Respondent provided a well supported appraisal report with a tight range of value for the subject property. The Board was not convinced that Respondent's recommended value was incorrect or that any further reduction was warranted.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$140,000.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2007 actual value for the subject property of \$140,000.00.

The Denver County Assessor is directed to change his/her 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 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 13 day of September 2010.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Karen E Hart

Karen E. Hart

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

Amy Bruins

Amy Bruins

