

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 51789,
51790 & 51791**

Petitioner:

BRUCE STEWART,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 27, 2010, Sondra W. Mercier and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2009 actual values of the subject properties.

The Board consolidated Dockets Nos. 51789, 51790, and 51791.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

Docket No. 51789

**226 North 6th Avenue, Brighton, Colorado
Adams County Schedule No. R0003057**

Docket No. 51790

**43 South 10th Avenue, Brighton, Colorado
Adams County Schedule No. R0003453**

Docket No. 51791

**704 South 1st Avenue, Brighton, Colorado
Adams County Schedule No. R0004382**

The subject property in Docket No. 51789 is located at 226 North 6th Avenue in Brighton and consists of a frame bungalow style residence built in 1919. There are 680 square feet of living area consisting of two bedrooms and one bathroom. The basement consists of 680 square feet. There is a small detached one car garage. The residence is situated on a 7,500 square foot site.

The subject property in Docket No. 51790 is located at 43 South 10th Avenue in Brighton and consists of a frame and brick veneer ranch style home built in 1948. There are 858 square feet of living area consisting of two bedrooms and one bathroom. There is no basement and a detached one car garage. The residence is situated on a 7,500 square foot site.

The subject property in Docket No. 51791 is located at 704 South 1st Avenue in Brighton and consists of a frame ranch style home built in 1955. There are 600 square feet of living area consisting of two bedrooms and one bathroom. There is no basement and a detached one car garage. The residence is situated on a 7,200 square foot site.

Based on the market approach, Petitioner presented indicated values of \$70,269.00 for Docket No. 51789, \$87,378.00 for Docket No. 51790, and \$61,104.00 for Docket No. 51791.

Petitioner presented nine comparable sales for all three properties ranging in sales price from \$70,000.00 to \$100,968.00 and in size from 600 to 1,092 square feet. No adjustments were made to any of the sales for differences in physical characteristics. Petitioner's sales included the sales of the subject properties in Docket Nos. 51789 and 51790.

Petitioner testified all three properties were purchased for investment purposes. Docket Nos. 51789 and 51790 sold within the base period; Docket No. 51791 sold after the base period. All of the sales had minimal updating but were considered to be in average condition. Docket Nos. 51789 and 51790 were both bank owned properties and Docket No. 51791 was not a bank owned property. After the purchase was complete, minor repairs were done to include: water heater, landscaping, carpet cleaning, and paint.

Petitioner contends Respondent has overvalued the subject properties utilizing superior sales in condition, quality, and market appeal. Respondent did not adequately adjust the sales for differences in condition and location. Docket No. 51791 is located within close proximity to the railroad tracks and is influenced by noise. Respondent's sales all reflect the upper end of the market, and Respondent did not consider any bank owned properties in the valuation process. The sales of the subject properties during the base period were not considered within Respondent's analysis.

Petitioner is requesting 2009 actual values of \$70,269.00 for Docket No. 51789, \$87,378.00 for Docket No. 51790, and \$61,104.00 for Docket No. 51791.

Respondent's witness, Mr. Dominic P. Mailo Registered Appraiser with Adams County Assessor's office, presented indicated values of \$105,060.00 for Docket No. 51789, \$121,473.00 for Docket No. 51790, and \$95,135.00 for Docket No. 51791 based on the market approach.

Respondent presented three separate appraisal reports: for Docket No. 51789 located at 226 North 6th Avenue, six comparable sales were presented ranging in sales price from \$96,500.00 to \$126,000.00 and in size from 676 to 740 square feet; for Docket No. 51790 located at 43 South 10th Avenue, six comparable sales were presented ranging in sales price from \$112,900.00 to \$174,900.00 and in size from 676 to 875 square feet; and for Docket No. 51791 located at 704 South 1st Avenue, five comparable sales were presented ranging in sales price from \$112,900.00 to \$126,000.00 and in size from 676 to 740 square feet.

Respondent's witness testified the comparable sales used for all three properties are located in the same market area and considered to be similar in size, style, quality, and market appeal. Adjustments were made for all differences in physical characteristics. All of the sales were considered to be in similar condition as the subject properties. There were no adjustments made to any of the comparable sales for negative influences caused by the subject's location to the railroad tracks in Docket No. 51791. All of the sales are considered to share similar location and are affected by the same influences.

Respondent's witness testified that although Petitioner purchased two of the properties as bank owned, and utilized several bank owned properties in his analysis, there were an insufficient number of bank owned sales within the market area to consider them as an indication of market perception as most were purchased below market value.

Respondent assigned tax year 2009 actual values of \$105,060.00 for Docket No. 51789, \$121,473.00 for Docket No. 51790, and \$95,135.00 for Docket No. 51791.

In Docket Nos. 51789 and 51790, Petitioner presented sufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2009. In Docket No. 51791, Petitioner did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board was not convinced that bank owned properties within the market area are a significant part of the marketplace adversely impacting arm's-length transactions and affecting market perception. However, the Board was convinced that Respondent's sales within this area, reflecting higher value ranges, are a result of the degree of updating and condition of the improvements. The Board was convinced that the comparable sales used by Respondent are superior to all three of the subject properties and warrant further adjustments.

In Docket No. 51789 located at 226 North 6th Avenue, the Board concluded that the comparable sales are superior in condition and reflect a higher degree of updates. Therefore the Board applied a condition adjustment of 5% to the comparable sales for updating and condition of the improvements. Also, Petitioner noted that there is no basement finish. The Board removed that adjustment for an indicated value of \$95,000.00.

For Docket No. 51790 located at 43 South 10th Avenue, the Board applied a 5% condition adjustment, adjusted the difference in brick veneer to \$2,500.00, and readjusted the differences in heating systems and age for a value of \$118,000.00.

In Docket No 51791 located at 704 South 1st Avenue, the sales were adjusted 3% for location to the railroad tracks and heating system difference. The Board made no condition adjustment as it appears from the photo to be in similar condition. After the adjustments were made, Respondent's assigned value was supported.

The Board concluded that the 2009 actual values of the subject properties in Docket Nos. 51789 and 51790 be reduced to \$95,000.00 and \$118,000.00 respectively. The Board agreed with Respondent's assigned value for Docket No. 51791 of \$95,135.00.

ORDER:

For Docket No. 51789, Schedule No. R0003057, Respondent is ordered to reduce the 2009 actual value of the subject property to \$95,000.00.

For Docket No. 51790, Schedule No. R0003453, Respondent is ordered to reduce the 2009 actual value of the subject property to \$118,000.00.

For Docket No. 51791, Schedule No. R0004382, the petition is denied.

The Adams County Assessor's 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 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 of the respondent county, 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).

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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of May 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

Debra A. Baumbach
Debra A. Baumbach

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

Heather Flannery
Heather Flannery

