

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ARTHUR KANE AND DENISE THOMASSON,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53146</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 1, 2011, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner, Arthur Kane, appeared pro se on behalf of Petitioners. Respondent was represented by Charles T. Solomon, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**1000 East 18th Avenue, #203A, Denver, Colorado
Denver County Schedule No. 02354-10-067-067**

The subject property consists of a single-family residential loft located on the second level of the Avenue Lofts Condominium project. The loft contains a total of 1,540 square feet of gross living area, two bedrooms, one and one-half bathrooms, and two garage parking spaces. The loft has central air-conditioning and a deck.

Petitioners are requesting an actual value of \$350,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$378,300.00 for the subject property for tax year 2009.

Petitioners presented two comparable sales ranging in sale price from \$340,000 to \$365,000.00 and in size from 1,070 to 1,254 square feet. No adjustments were accomplished.

Mr. Kane testified that the Denver Assessor has overvalued his property by \$30,000.00 and that Mr. Ricardo Galvan, the Denver Assessor's appraiser, utilized comparable sales from the earlier part of the base period, thus avoiding comparable sales in the latter part of that period when the

housing market had declined in Denver. Mr. Kane testified that Mr. Galvan's Comparable Sales 1 and 2, with sale dates of April 27, 2007 and April 13, 2007, sold at the beginning of the base period. The base period extended from January 1, 2007 to June 30, 2008. Mr. Kane testified that Mr. Galvan did not give consideration to competing residential loft sales in the area such as the two sales that Petitioners provided and that he did not give consideration to comparable sales from the subject condominium development that occurred later in the base period.

Petitioners are requesting a 2009 actual value of \$350,000.00 for the subject property.

Respondent presented a value of \$372,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$342,000.00 to \$407,000.00 and in size from 1,460 to 1,690 square feet. After adjustments were made, the sales ranged from \$366,100.00 to \$403,000.00.

Mr. Galvan testified that he used comparable sales that he considered more closely comparable to the subject, those sales having a similar second floor location in the building, having the same number of bedrooms and bathrooms and having the same number of assigned parking spaces. Mr. Galvan testified that there was no measurable trend in residential property values during the base period.

Respondent assigned an actual value of \$378,300.00 to the subject property for tax year 2009.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2009. Mr. Kane testified that Mr. Galvan did not utilize a comparable sale from the Avenue Lofts, occurring in March of 2008 and placing the sale closer to the appraisal date and closer to the end of the base period. This comparable sale at unit number 102 sold for \$291,900. This sale is located on the first floor, has one bedroom and one bathroom, has a total of 1,136 square feet of gross living area and has one assigned parking space. Mr. Kane utilized Mr. Galvan's adjustment parameters to derive an adjusted sale price of \$337,000.00 for this property.

The Board agreed with Petitioners' analysis utilizing the more recent comparable sale from the subject condominium development. The Board concluded that, while all adjustments are important in deriving a market value estimate, a sale that has occurred within three months to the date of appraisal should be utilized in the valuation analysis because it gives a more clear indication of the housing market. The Board noted that the median sale price of the three sales from the second floor of the subject condominium development was \$360,000.00. The Board concluded that Mr. Galvan's Comparable Sale 2, with a sale price of \$407,000.00, appeared to be superior to the subject property because of additional value added elements not disclosed in his analysis and, therefore, resulting in a higher sale price.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$360,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$360,000.00

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 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 4 day of February 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Lyle D. Hansen
Lyle D. Hansen

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

Amy Bruins
Amy Bruins

