

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53578

Petitioner:

THOMAS H. AND AMY B. CARTER,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 26, 2011, Sondra W. Mercier and Lyle D. Hansen presiding. Mr. Thomas Carter appeared pro se on behalf of Petitioners. Respondent was represented by David V. Cooke, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**4625 East 25th Avenue, Denver, Colorado 80207
Denver County Schedule No. 01312-02-012-000**

The subject property consists of a two-story masonry single-family residence containing a total of 1,739 square feet of gross living area on the main and upper levels with 806 square foot basement of which 685 square feet is finished. The residence has a total of three bedrooms and one and one-half baths above grade, one fireplace and a one-car attached garage. The rear portion of the garage is considered to be of shed quality and use. The residence is situated on a 5,950 square foot lot.

Petitioners are requesting an actual value of \$325,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$488,400.00 for the subject property for tax year 2009. This value was reduced 15% by the Denver County Assessor to \$415,100.00. The Denver County Board of Equalization reduced that value to \$405,100.00 which is the assigned value for 2009.

Petitioners' witness, Thomas H. Carter, protested the land value assigned by the Denver County Board of Equalization. He presented five land comparable sales to derive his land value

estimate of \$167,847.05. Mr. Carter testified that his residence has multiple physical condition issues including a sinking foundation, exposed asbestos in the basement, broken windows throughout the residence, cracks in the walls, and dry rot on the gutters and fascia. He testified that his garage is configured in a tandem design preventing him from actually using it for storage of two cars. He testified that the residence needs new exterior side stairs. Mr. Carter testified that Excel energy installed additional power poles in front of his residence that result in a loss in market appeal and value to his property. Mr. Carter presented no documentation on cost estimates to correct the physical condition issues and he presented no engineering reports concerning his testimony on the sinking foundation.

Petitioners are requesting a 2009 actual value of \$325,000.00 for the subject property.

Respondent presented a value of \$427,000.00 for the subject property based on the market approach.

Respondent's appraiser, Ms. Adriana Gonzalez, presented six comparable sales ranging in sale price from \$440,000.00 to \$589,000.00 and in size from 1,640 to 1,907 square feet. After adjustments were made, the sales ranged from \$409,000.00 to \$504,100.00. Ms. Gonzalez testified that she was unable to get permission to accomplish an interior inspection from Petitioners. She utilized information obtained from a previous inspection of the improvements that was accomplished on September 24, 2009 by James Barber, a Senior Real Property Appraiser with Denver County. Based upon that information, Ms. Gonzalez accomplished downward adjustments for the subject's inferior condition on all six comparable sales. She accomplished adjustments for differences in location, lot size, baths, gross living area, basement area and finish. She accomplished a downward adjustment for a one-car garage rather than a tandem designed two-car garage.

Respondent assigned an actual value of \$405,100.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2009.

The Board placed greater reliability upon Respondent's value estimate. The six comparable sales were located in the same residential neighborhood as, and in close proximity to, the subject. The Board agreed with the appraiser's adjustment analysis to the six comparable sales. The Board agreed with Ms. Gonzalez' valuation analysis relating to the downward adjustments of the comparable sales to reflect the inferior condition of the subject. The Board concurred with Ms. Gonzalez' value conclusion in the lower portion of her established adjusted sale price range to account for differences of the subject's condition and the tandem garage.

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 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 4th day of October, 2011.



BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

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.

Milla Crichton

Milla Crichton