

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALAN F. FOX,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55651</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 3, 2011, Sondra W. Mercier and Debra A. Baumbach presiding. Mr. Alan F. Fox appeared pro se. Respondent was represented by Michelle Bush, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**3550 Belcaro Lane, Denver, Colorado
Denver County Schedule No. R05135-09-012-000**

The subject property is a brick ranch style residence consisting of approximately 3,655 square feet of above grade living area built in 1953. In 2009, a building permit was issued for a room addition increasing the above grade living area to approximately 3,773 square feet. The residence has three bedrooms and three and a half bathrooms. The basement consists of 1,188 square feet with approximately 712 square feet of finished area. There is a 743 square foot garage and mature landscaping. The lot size is 18,600 square feet.

Petitioner is requesting an actual value of \$1,298,400.00 for the subject property for tax year 2010 and Respondent has assigned an actual value of \$1,619,700.00 for tax year 2010.

Mr. Fox presented an indicated value of \$1,298,400.00 based on the 2009 actual value of the subject property. Mr. Fox contends Respondent substantially increased the value of the subject property in an intervening year due to the property class change. The increase in value was based on information obtained from the Multiple Listing Service (the MLS) for the subject property.

Mr. Fox testified that shortly after the purchase in 2009, the pool was filled and a room was added increasing the square footage of the subject. According to Mr. Fox, the majority of the updating done to the property was completed in 2001, eight years prior to Mr. Fox's purchase of the subject. Mr. Fox contends the increase in value from 2009 to 2010 is not supported by the data. Additionally, Mr. Fox contends that based upon a conversation he had with Mr. Eriffmeyer with the Denver County Assessor's Office, the parties settled on the value of the subject.

Petitioner is requesting a 2010 actual value of \$1,298,400.00 for the subject property.

Respondent presented an indicated value of \$1,700,000.00 for the subject property based on the market approach.

Witness for Respondent, Mr. Timothy Beach with the Denver County Assessor's Office, testified regarding Mr. James R. Zelensky's appraisal report which he reviewed and signed. Respondent presented three comparable sales ranging in sale price from \$1,250,000.00 to \$1,725,000.00 and in size from 2,766 to 3,329 square feet. After adjustments for physical differences were made, the sales ranged from \$1,496,000.00 to \$1,782,400.00.

Mr. Beach testified that the comparable sales Mr. Zelensky selected were considered to be the most similar to the subject in location, size, style and market appeal. Sales 1 and 2 are located within the subject's neighborhood, and Sale 3 is located in a nearby competing neighborhood. Adjustments were made for all differences in physical characteristics and any other factors affecting the overall value. In arriving at the final estimate of value, most consideration was placed on Sale 1 as it required the least percentage of adjustments.

Mr. Beach testified that after Petitioner had filed an abatement request, he reviewed the property record information for the subject property. A comparison was done from information reported by the MLS, the building permits, and what had been indicated on the property record card. He noted the Assessor's Office had not corrected the square footage to reflect the room addition or any updating that had been done to the property. The condition, desirability and utility of the property were rated as average and did not reflect any of the improvements. The property record information was corrected to reflect the new information.

Mr. Beach concluded that the subject property had been undervalued for tax year 2009 and therefore revalued the subject property for tax year 2010.

Assessor is allowed pursuant to Section 39-1-104(11)(b)(1), C.R.S. to revalue a property in an intervening year if information becomes available that the property has an unusual condition, such as room additions or remodeling of a structure. Mr. Beach testified that the Denver County Assessor's Office relied on the 2009 MLS listing and building permits in correcting the error. The condition rating was not the only basis for the increase in subject's value; the room addition also contributed to the increase.

After reviewing all of the available information, Respondent determined that the property was undervalued for tax year 2009 and therefore no settlement agreement was warranted.

Respondent assigned an actual value of \$1,619,700.00 for tax year 2010.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for 2010.

The Board was convinced Respondent applied Section 39-1-104(11)(b)(1) appropriately in revaluing the subject property in an intervening year. The Board was convinced the room addition and the remodeling falls within the interpretation of the statute.

Respondent presented comparable sales supporting the value and made appropriate adjustments for differences in physical characteristics. Petitioner did not provide the Board with alternative comparable sales to refute the information presented by Respondent. The Board was convinced that the subject property is in good condition. Although the majority of the updating was done in 2001, the assigned value is below the indicated value taking into consideration any depreciation and deferred maintenance issues affecting the property.

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).

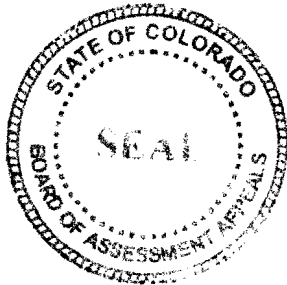
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 22nd day of November, 2011.



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.

Milla Crichton

Milla Crichton