

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BARTHOLOMEW J. AND MARIETTA L. CRESCI,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 59270</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 28, 2012, Gregg Near and MaryKay Kelley presiding. Bartholomew J. Cresci appeared pro se on behalf of Petitioners. Respondent was represented by Charles T. Solomon, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2010.

Subject property is described as follows:

**1324 Gilpin Street, Denver, Colorado
Denver County Schedule No. 0502111007000**

The subject property is a 2,960 square foot brick two-unit residence with basement and garage. It was built in 1896 on a 6,250 square foot site in the Cheesman Park neighborhood, which encompasses a large city park, high-rise condominium buildings, and single family and two-to-four-unit homes.

Petitioners are requesting an actual value between \$250,000.00 and \$290,000.00. Respondent assigned a value of \$394,900.00.

Petitioners purchased the subject property in 1976 and began rehabilitation with Mr. Cresci acting as the general contractor. In 1983 and without Petitioners' knowledge, the area was historically designated. Historical designation requires conformity to the home's vintage and approval for exterior changes, all of which increase construction costs and lower market value per Mr. Cresci. For these reasons, he abandoned work on the house, unable to meet the financial burden

and unable to hire contractors willing to work within historical designation requirements. Petitioners equate historical designation to a hostile takeover by the city.

In 2002, the home was further damaged by an electrical fire. Despite water damage caused by rain, the roof was not repaired until 2011. Mr. Cresci reported other areas in need of work: a structurally unstable foundation; bowed exterior walls with loose and crumbling bricks; a collapsed chimney; a third floor deck and escape stairs requiring replacement; unstable roof joists; interior damage to walls, floors and ceilings; a rotted front door and misaligned windows; interior water damage; electric and plumbing defects; and asbestos. Petitioners' requested value was based on physical condition and the negative effects of historical designation, a declining real estate market, and location on a crime-ridden street.

Respondent presented a value of \$408,100.00 for the subject property based on the market approach. Respondent's witness, Timothy Muniz, Certified Residential Appraiser, presented eight comparable sales, all conversions to two or more units, ranging in sale price from \$303,650.00 to \$545,000.00. He concluded to a value based on a weighted estimate.

Mr. Muniz discussed his adjustments, which were based on mass appraisal. He applied \$100,000.00 adjustments to Sales 1 through 4 for their superior condition and \$35,000.00 to Sales 5 through 8 for their inferior condition. Condition adjustments were based on market data and discussions with contractors. Adjusted sale prices ranged from \$337,828.00 to \$454,690.00.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2010.

The Board acknowledges Petitioners' position on historical designation. Despite a plea to reverse the City's decision, the Board has no jurisdiction in this area.

Both state constitution and statutes require use of the market approach for residential property. Respondent's appraiser presented an array of sales, some historically designated, most conversions, and all addressing the subject's condition. The Board has less confidence in adjustments derived from mass appraisal and places less reliance on percentage adjustments, which reflect the collective price of all features (size, remodeling, garages, and extras, for example). However, Petitioners offered no market data.

The Board placed greatest weight on Sales 5, 6 and 7 (all conversions) due to similarity in physical condition to the subject. The Board finds the subject to be in less than fair condition, especially the foundation and exterior, and is not convinced the condition adjustment is warranted. It has also applied a uniform adjustment of \$10,000.00 for differences in lot size. Greatest weight is assigned Sale 7, which occurred near the end of the base period.

Respondent's positive time adjustments were discussed but not made available and conflict with reported "stable" values and a "balanced" demand/supply on page 1 of the report. Analysis of gross sale prices for Sales 6 and 7, which reflect the beginning and end of the base period, suggests a time adjustment of plus/minus 10%.

Based on Sales 5, 6 and 7, with greatest weight given to Sale 7, the Board concludes that the actual value of the subject property should be reduced to \$350,000.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners based on a 2010 actual value for the subject property of \$350,000.00.

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).

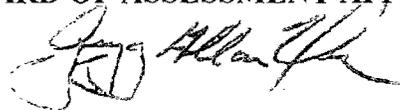
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 12th day of April, 2012.

BOARD OF ASSESSMENT APPEALS



Gregg Near

MaryKay Kelley

MaryKay Kelley

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



Milla Crichton

