

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 59459

Petitioner:

WILHELM HORRIX,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 26, 2013, Louesa Maricle and Amy J. Williams, presiding. Petitioner, Mr. Wilhelm Horrix, appeared pro se. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**2560 Blake Street, Unit 104
Denver, Colorado 80205
Denver County Schedule Number 02277-08-016-016**

The subject property consists of one, 1,447 square foot condominium unit within the Blake Street Lofts Condominium project. The subject includes 1.5 baths, two bedrooms and a 691 square foot finished basement.

Petitioner is requesting an actual value of \$313,236 for the subject property for tax year 2011. Respondent assigned a value of \$355,500 for the subject property for tax year 2011.

Petitioner, Mr. Horrix, testified that a similar unit, Unit 101, sold in September of 2009 and should be the basis for valuation of his unit. Mr. Horrix described the unit as similar in square footage, with two bedrooms and a finished basement. Based upon the sale price of \$297,000 for Unit 101, or \$216.67 per square foot, he established a value of \$313,265 for the subject unit No. 104. While Unit No. 101 did sell via an absolute auction process, Mr. Horrix testified that the sale was

not under duress, rather it had been remodeled, marketed for three months and sold in a competitive bid auction at the election of the owner.

Petitioner is requesting the subject be valued at \$313,236.

Mr. Mitch Behr, attorney for Respondent, called Matthew G. Steder, Certified Residential Appraiser to testify. Mr. Steder presented an appraisal report wherein four sales were utilized to value the subject property. The first comparable was Unit No. 102 within the subject Blake Street Lofts Condominium project. This unit, per Mr. Steder's testimony, was characteristically similar to the subject; also a two bedroom unit with a finished basement and located on the first floor. The remaining three condominium sales were then discussed with selection criteria and characteristics explained. Mr. Steder testified that only three sales within the subject complex occurred within the relevant reappraisal time period, Unit Nos. 101, 102 and 305. While Unit 102 was utilized in the valuation of the subject unit, the other two sales were not. Sale of Unit No. 305 was not considered as it was a much smaller unit; only 980 square feet located on the third floor and did not include basement area. The sale of Unit No. 101 was also not utilized as it was sold through an auction process and excluded as a duress sale. Mr. Steder testified that because the unit received limited market exposure and the sale was an absolute auction, he eliminated the sale from consideration. Mr. Steder did note that he did not talk to the owner and little additional information surrounding the auction was available through a discussion with the listing agent.

During cross examination by Petitioner, Mr. Steder was questioned regarding his use of the basement square footage in the valuation process, asserting that basement square footage could not be considered. When questioned on re-direct by Mr. Behr, Attorney for Respondent, Mr. Steder explained that the finished basement square footage was not included in the total living area square foot calculation of the subject unit, but was a characteristic which added value.

Respondent assigned an actual value of \$355,500 to the subject property for tax year 2011. Respondent's witness concluded to a value of \$375,000, which is higher than the assigned value. Therefore, Respondent requested that the assigned value of \$355,500 be upheld.

Respondent presented sufficient probative evidence and testimony to show that the property was correctly valued for tax year 2011.

The Board concluded that the preponderance of evidence supports the value as assigned by Respondent. That said, the Board is not entirely persuaded that the sale of Unit No. 101 should have been excluded. The Board would encourage Respondent to be more inclusive of sales activity, especially in a difficult market where non-traditional methods are being used to attract buyers. However, had this sale been utilized, it is the conclusion of the Board that, after application of an appropriate condition of sale adjustment, the subject value would not have been materially impacted.

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 10th day of July, 2013.



BOARD OF ASSESSMENT APPEALS

Louesa Maricle

Amy J. Williams

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

Milla Lishehuk