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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARK B. RANDS,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 63041</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 1, 2014, Gregg Near and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Kerri Booth, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**9191 Nagel Drive, Thornton, Colorado
Adams County Schedule No. R0052527**

The subject is a 1,176 square foot ranch home built in 1954 on a 6,500 square foot lot.

Respondent assigned a value of \$142,111 for tax year 2013. Petitioner is requesting a value of \$92,000.

Mr. Rands testified that he has owned the subject property for thirty years and that it has not been updated since 1983; the driveway is gravel, the kitchen is original, the master bath is not functional, the furnace is over twenty-five years old, and all flooring needs to be replaced. The neighborhood is impacted by bentonite soil, which expands and contracts, causing structural cracking. Mr. Rands provided pictures of exterior and interior cracks, dated and delaminated wood paneling, missing doors, mold, peeling wallpaper, and an old stove; he described the home's condition as "fair". Admitting his offered photos are the same as those presented at prior BAA hearings, he testified that physical condition remains the same.

Mr. Rands based his requested value of \$92,000 on the sale at 1500 Pueblo Court. It sold in April of 2012 for \$92,000.

Mr. Rands provided MLS pages for 69 base period sales between 950 and 1,250 square feet, the mean sale price being \$104,845.17 and \$91,086.43 for homes without remodeling. No adjustments were made for differences between these sales and the subject property.

Mr. Rands discussed Respondent's comparable sales. Sale One, per MLS, has been remodeled with painted kitchen cabinets, new countertops, new appliances, new doors, new bathroom fixtures and tile, double pane vinyl windows, and new carpet and paint. Sale Two, per MLS, has been remodeled with new carpet and paint, new kitchen with granite and stainless steel appliances, new garage, and tiled bathrooms. Sale Three, per MLS, has a remodeled kitchen with granite countertops, new bathroom tile, double pane windows, and new carpet and paint. Mr. Rands noted that Respondent's witness made no adjustments for these superior interiors.

Respondent's witness, James W. Fuller, Certified Residential Appraiser, visited the subject property in June of 2013 but was denied access. He determined physical condition to be "average" based on a limited view from the front door, and he was unwilling to change his condition rating without an interior inspection. He described Petitioner's photographs as dated and noted that they had been presented in prior years' hearings. He also testified that all homes in the neighborhood have experienced settling due to bentonite soil; cracking is typical.

Mr. Fuller described Petitioner's comparable sale at 1500 Pueblo Court as an estate sale, which he considered a duress transaction and, therefore, invalid.

Mr. Fuller presented a sales comparison analysis to derive a value of \$142,111. He presented three comparable sales ranging in price from \$135,000 to \$144,000. All were the same size as the subject and without basements. Mr. Fuller described all to be in average physical condition. After adjustments for concessions and market conditions, garages and carports, the adjusted indications ranged from \$138,062 to \$145,398.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

While the Board fully acknowledges Petitioner's concerns about privacy, his refusal to allow an interior inspection is a significant obstacle for Respondent's appraiser, requiring him to make extraordinary assumptions about interior features and physical condition.

The Board has reviewed Petitioner's 69 sales and gives little weight to them. The great majority are foreclosures, short sales, trusts or estates, all of which suggest duress. The remaining sales (assumed to be arm's length transactions in which buyers and sellers act without undue stimulus) appear to be in far superior condition than the subject as described by Petitioner. None of Petitioner's data provides the Board with sufficient information to make comparisons to the subject.

The Board suggests that, in the future, photographs be current and dated. Petitioner's

testimony and exhibits may or may not present a defensible and convincing description of the subject property (features and condition), and Respondent will likely refuse to accept the data as equal to an interior inspection.

Colorado case law requires that “[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . .” *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Petitioner failed to meet this burden.

The Board declines to use 1500 Pueblo Court as a comparable sale. It was an estate sale purchased for rehabilitation and then resold. Likely occurring under duress and non-arm’s length, it carries little weight.

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-nine 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-nine days after the date of the service of the final order entered).

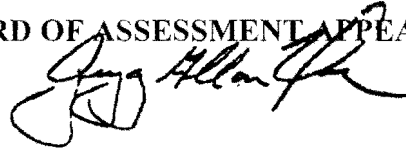
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

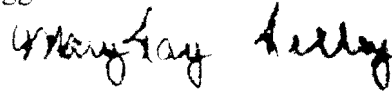
Section 39-8-108(2), C.R.S.

DATED and MAILED this 18th day of August, 2014.

BOARD OF ASSESSMENT APPEALS

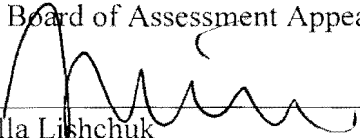


Gregg Near



MaryKay Kelley

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


Milla Lishchuk