

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 63042

Petitioner:

MARK B. RANDS,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

ORDER

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:

**9195 Nagel Drive, Thornton, Colorado
Adams County Schedule No. R0052492**

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

Respondent assigned a value of \$110,000 for tax year 2013. Petitioner is requesting a value of \$72,000.

Mr. Rands purchased the subject property in December of 2012 for \$85,100 as a HUD foreclosure. He testified that it had been listed at \$72,000, the source of his requested value.

At time of purchase, Mr. Rands considered the home's physical condition to be "poor at best" due to foundation cracks from bentonite and required mitigation prior to installation of new carpet and tile, cabinets not secured, floor and wall cracks, an inoperable furnace, and plumbing leaks. Photos taken at time of purchase were submitted. Mr. Rands stated he has invested \$50,000 toward mitigation that began after January 1, 2013.

Mr. Rands discussed Respondent's comparable sales. Sale One, per MLS, was remodeled with new countertops, appliances, doors, bathrooms, fixtures, tile, windows, roof, and flooring. Sale Two, per MLS, was remodeled with granite countertops and tile, bathroom tile, appliances, and windows. Sale Three, per testimony without MLS verification, was remodeled from the stud walls outward. Mr. Rands argued that Respondent's witness did not make adjustments to the sales despite their superior condition.

Respondent's witness, James W. Fuller, Certified Residential Appraiser, walked through a portion of the subject property in June of 2013 before being asked to leave. During his limited visit, he saw some new baseboards, new appliances, and new bathroom vanities and sinks. Mr. Fuller rated condition as "average". He declined to change his condition rating of "average" without a full interior inspection.

Mr. Fuller presented a market approach to derive a value of \$110,000. He presented three comparable sales ranging in sale price from \$135,000 to \$140,000. All were the same square footage as the subject. After adjustments for concessions and market conditions, carports, fireplaces, and age, the adjusted indications ranged from \$130,200 to \$135,078. After concluding to a rounded value of \$130,000 he applied a \$20,000 adjustment to all sales for the greater updating he was convinced had been done to the comparable sales.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013. 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 has not met this burden.

The Board has some indication of the property's condition based on Petitioner's photos taken at time of purchase (December 2012) and is not convinced that any substantial work was done between that date and the assessment date of January 1, 2013. Respondent's witness observed some repairs during his partial inspection in June of 2013 but did not inspect the home on January 1 to determine its condition on that date.

While the Board is persuaded that the subject was in less than average condition on the assessment date, Petitioner did not provide any sales for comparison to the subject. Respondent has already made an adjustment to the original BOE's actual value for condition. Additional adjustments to Respondent's comparable sales would be subjective and without support. While Respondent's indicated value of \$110,000 might not reflect the subject's condition as of January 1, 2013, Petitioner failed to present data supporting a lower value.

Petitioner's refusal to allow full access to the subject property is a significant obstacle for Respondent's appraiser, requiring him to make extraordinary assumptions with regard to interior features and physical condition.

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

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 Lishchuk

Milla Lishchuk