

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JOHN A. KINTZELE AND SUZANNE J. KARP-KINTZELE,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63574</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 4, 2014, James R. Meurer and Debra A. Baumbach presiding. John A. Kintzele, Esq. appeared on behalf of Petitioners. Respondent was represented by Mitch Behr, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**2241-2247 Quitman Street, Denver, Colorado  
Denver County Schedule No. 02311-37-009-000**

The subject property is a multi-family residential apartment complex consisting of four units located in the Sloan’s Lake submarket of Denver. There is a total of 2,681 square feet of net rentable area with an average unit size of 670 square feet. There are four one-bedroom, one-bath units. There are four open on-site parking spaces and the complex is situated on a 9,520 square foot site.

Petitioners are requesting an actual value of \$380,000 for the subject property for tax year 2013. Respondent assigned a value of \$395,100 for the subject property for tax year 2013.

Mr. Kintzele contends Respondent has overvalued the subject property by not giving adequate consideration to the deferred maintenance affecting the subject’s value. According to Mr. Kintzele, the property suffers numerous deferred maintenance issues affecting the overall marketability and value: There are problems with the water system resulting in minimal landscaping and the units are

in need of updating. In addition, Petitioners argued that Respondent has valued the land component significantly higher than other properties in the area without market support.

Mr. Kintzele concluded to a value of \$380,000 for tax year 2013 based on a written stipulation entered between Petitioners and Denver County Board of Equalization. The stipulation, which was signed on September 30, 2011, valued the property at \$385,900 for tax year 2011. Using the stipulated value of \$385,900 as a starting point for his calculations for determining the subject's 2013 value, Mr. Kintzele made a deduction to the land value component giving some consideration to the maintenance items. Mr. Kintzele made deductions for land value and for repairs in concluding to the subject's 2013 value of \$380,000.

Respondent's witness, Ms. April D. Roybal, with Denver County Assessor's Office, presented an indicated value of \$408,800 based on the market approach. Ms. Roybal presented three comparable sales of multi-family residential apartments including the sale of the subject property. The sales ranged in sales price from \$289,973 to \$462,500, or \$87,000 to \$115,625 per unit. After adjustments were made for time, location, size, parking area and basement area, the sales ranged from \$306,628 to \$444,541 or \$100,489 to \$111,135 per unit.

Ms. Roybal presented a gross rent multiplier methodology to support the value concluded to by the market approach and concluded to a value of \$408,800.

Ms. Roybal testified all of the sales are located within the same market area and share similar market perception. An exterior inspection was performed as she was not given access to inspect the interior units. Petitioners provided no maintenance cost estimates to determine if any adjustments for condition were warranted. All of Respondent's comparable sales were reported to be in average condition similar to that of the subject property.

Ms. Roybal testified the subject has a superior location within one and one-half blocks from Sloan's Lake. Typically, the market supports higher land values incrementally closer to the lake.

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

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). The Board finds that Petitioners did not meet their burden of proof. After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced Respondent's assigned value is supported and accurately reflects market value for the subject. The Board agrees Respondent's sales are located within the same market as the subject, sharing similar market influences and requiring limited adjustments.

Mr. Kintzele testified to maintenance issues affecting the value and marketability of the subject. However, the Board was not convinced that atypical maintenance costs or capital expenses were present. Petitioners provided insufficient evidence to support above average maintenance or capital improvement costs that would result in a lower value for the subject property. Petitioners

have provided insufficient evidence supporting that land values located within closer proximity to Sloan's Lake do not represent higher land values.

Mr. Kintzele argued that the 2011 value of \$385,900 which was stipulated between Petitioners and the Assessor was binding on the parties when assessing the subject's values in the following years. According to Petitioners, the stipulated value for 2011 is relevant in determining the subject's value for 2013.

Proceedings before the Board of Assessment Appeals are *de novo* in nature. *Johnson v. Park County Bd. of Equaliz.*, 979 P.2d 578 (Colo. Ap. 1999). A 2011 value determination reached by a stipulation at a lower level of appeal is not relevant to the Board's determination of the subject's value.

Colorado statutes set out methodology for establishing values for purposes of taxation. Pursuant to Section 39-1-103, C.R.S., residential property must be valued by the use of the market approach. Petitioner's use of the 2011 stipulation as a base value for determining the subject's 2013 value is not an acceptable valuation methodology.

### **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.

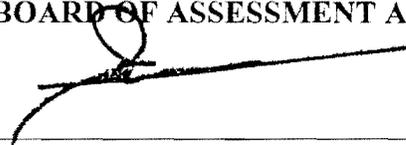
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such

decision.

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

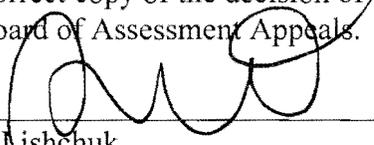
**DATED and MAILED** this 24th day of February, 2014.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
James R. Meurer

  
\_\_\_\_\_  
Debra A. Baumbach

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

  
\_\_\_\_\_  
Milla Lishchuk

