

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN A. KINTZELE SR., v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63577</p>
<p>ORDER</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 his own behalf. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**2466-2472 S. York Street, Denver, Colorado
Denver County Schedule No. 05266-12-017-000**

The subject property is a multi-family residential apartment complex consisting of five units located in the DU submarket of Denver. There is a total 2,850 square feet of net rentable area with an average unit size of 570 square feet. There are three one-bedroom units, one-two bedroom unit and one-two bedroom basement unit. There are five open on-site parking spaces and the complex is situated on a 7,013 square foot site.

Petitioner is requesting an actual value of \$395,000 for the subject property for tax year 2013. Respondent assigned a value of \$495,000 for the subject property for tax year 2013.

Mr. Kintzele contends that Respondent has overvalued the subject property by not giving adequate consideration to the issues affecting the value. According to Mr. Kintzele, the property suffers from numerous deferred maintenance issues affecting the subject’s overall marketability and value. Mr. Kintzele testified that the property was purchased during the valuation period, in July of 2011 for \$495,000. A premium was paid for the units based on their convenience and location adjacent to another property Petitioner owns.

Mr. Kintzele presented a value of \$395,000 based on a written determination from Denver County Board of Commissioners issued November 12, 2013 valuing the property at \$405,300 for tax year 2011. On November 18, 2013, Petitioner signed a stipulation agreeing to the \$405,300 value recommended by the County Assessor. Using the 2011 stipulated value of \$405,300 as a starting point for his calculations for determining the subject's 2013 value, Mr. Kintzele deducted costs for repairs estimated by his property manager, Mr. Jordan Strauss, and concluded to a value of \$395,000 for tax year 2013.

Petitioner's witness, Mr. Jordan Strauss, Manager of Laureate, Ltd. and a real estate broker, testified that he is responsible for the management of several of Mr. Kintzele's properties. Mr. Strauss testified that his 2013 estimated value for the subject was \$395,000. He based this value conclusion on his review of comparable sales of similar properties in the area as well as his estimate of necessary repairs and replacement costs over time. Mr. Strauss noted he placed most weight on the required costs to replace the roof, furnaces and plumbing in determining the value. He also considered decreasing rents in the area since 2006.

Respondent's witness, Ms. April D. Roybal with Denver County Assessor's Office presented an indicated value of \$536,900 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 sale prices from \$358,000 to \$617,500, or \$89,500 to \$154,375 per unit. After adjustments were made for personal property, time, location, unit size, garage area, and basement area, the sales ranged from \$446,300 to \$644,600, or \$89,266 to \$128,919 per unit. Ms. Roybal testified she placed most weight on the sale of the subject property.

Ms. Roybal presented a gross rent multiplier methodology and concluded to a value of \$536,900 for the subject.

Ms. Roybal testified all of the sales are located within the same market area and share similar market perception. Only an exterior inspection was performed as she was not given access to inspect the interior units. According to Ms. Roybal, Petitioner failed to provide cost estimates for deferred maintenance items affecting the value that would warrant further adjustments. All of the comparable sales used by Respondent were reported to be in average condition similar to that of the subject property.

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). 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 comparable sales are located within the same market sharing similar market influences and limited adjustments were required.

Petitioner's witness, Mr. Strauss, 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 (e.g., roof, furnace, or other large expenses) were present. Petitioner provided insufficient evidence to support above average maintenance or capital improvement costs that would result in a lower value for the subject property.

Mr. Kintzele argued that the 2011 value of \$405,300 which was stipulated between Petitioner and the Assessor was binding on the parties when assessing the subject's values in the following years. According to Petitioner, the stipulated value for 2011 is relevant to determining the subject's value for 2013.

Proceedings before the Board of Assessment Appeals are *de novo* in nature. *Johnston v. Park County Bd. of Equaliz.*, 979 P.2d 578 (Colo. App. 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 2013 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.

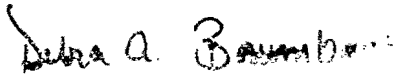
Section 39-8-108(2), C.R.S.

DATED and MAILED this 12th 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

