

<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>SUSAN FIELDING BAKER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63762</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 30, 2014, Sondra Mercier and MaryKay Kelley presiding. Joe T. Reece, Esq., Manager of Beicear Holdings, LLC and owner of subject property per Special Warranty Deed dated October 2, 2014, appeared for Petitioner. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**3671 Iris Avenue, Boulder, Colorado  
Boulder County Schedule. No. R0128908**

The subject property is a two-story home with 1,775 square feet plus 375 finished square feet below grade. It was built in 1997 in the Rugby Row Condos, which is comprised of thirteen attached and detached units, the subject being detached.

Respondent assigned a value for the subject property of \$326,500 but is recommending a value of \$320,000 for tax year 2013. Petitioner is requesting a value of \$275,000.

Mr. Reece and his wife purchased the subject sixteen years ago as an income producing rental. He described the interior as basic construction with original flooring and cabinetry, laminate counters (tiled island), and vinyl flooring. There has been neither upgrading nor remodeling.

Mr. Reese presented one comparable sale located at 3665 Iris Avenue, which sold in June of 2011 for \$305,400. He noted that its original sale price was approximately \$60,000 higher than the

subject's original price and that it reflected superior construction with granite kitchen counters, bamboo and slate flooring, higher-quality appliances, superior cabinetry, and upgraded lighting package. Mr. Reese considered this home's superior condition in concluding to his \$275,000 requested value for the subject property.

Respondent presented a Market Approach concluding to a value of \$320,000. Respondent's witness, Stewart A. Leach, Certified General Appraiser for the Boulder County Assessor's Office, presented three sales ranging in price from \$293,500 to \$305,000 and in size from 1,306 to 1,674 square feet. Sales Two and Three were located in similar-appealing subdivisions. After adjustments were made, adjusted sale prices ranged from \$318,000 to \$337,000, rounded. Most weight was placed on Sale One (located within the subject project and also offered by Petitioner), which had an adjusted sale price of \$318,000. Mr. Leach was denied interior access to the subject and based his research and value conclusion on file data and knowledge of the project and the area.

Mr. Leach responded to Mr. Reece's questions regarding his market adjustments. He made no adjustments for in-project amenities, such as clubhouses and pools, for which he could not define a market reaction. He did not consider air conditioning to have had a significant impact on value and made no adjustments for it. Contrary to Mr. Reece's opinion that delamination and other physical problems were caused by exterior stucco, Mr. Leach reported a greater market demand for stucco and denied seeing any defects on the exterior. Mr. Leach declined to adjust for age differences in his comparable sales, considering their years of construction relatively close to that of the subject.

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 provided inadequate support for the requested value, with only one sale and insufficient documentation (interior photos of the subject and comparable sale) to support the significant downward adjustment.

Section 39-1-103(8)(a)(I), C.R.S. indicates: "Use of the market approach shall require a representative body of sales, including sales of a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes." After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales accurately reflect the market value for the subject properties.

Both parties offered a comparable sale at 3665 Iris Avenue as most similar to the subject. While Petitioner presented no other sales, Respondent's witness placed greatest weight on this sale and supported it with an analysis of two others. While Petitioner questioned several of Respondent's adjustments, the Board is persuaded that all questions were answered satisfactorily and that the recommended value was supported by market data.

**ORDER:**

The petition is granted. The 2013 actual value of the subject property shall be reduced to Respondent's recommended value of \$320,000.

Boulder County Assessor is ordered to adjust his/her records accordingly.

**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 5th day of November, 2014.

**BOARD OF ASSESSMENT APPEALS**

*Sondra W m*

Sondra Mercier

*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

*[Handwritten signature of Milla Lishchuk]*

