

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAWN ATCHISON,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63925</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 21, 2014, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Charles T. Solomon, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**2462 South Ogden Street, Denver, Colorado
Denver County Schedule No. 05264-05-033-000**

The subject is a 1,106 square foot residence built in 1954 on a 4,061 square foot lot. It is attached to 2460 South Ogden Street, which fronts Harvard Gulch Park while the subject sits further back with a limited park view.

Respondent assigned a value of \$301,700 for tax year 2013. Petitioner is requesting a value of \$290,000.

Ms. Atchison, Realtor, rated the subject’s condition as “below average”. On purchase in 2001, she installed used cabinetry and appliances. According to Ms. Atchison, the interior is dated and obsolete.

Ms. Atchison described the subject’s proximity to Porter Hospital (four homes to the north). She considered the related noise and congestion to negatively impact value and noted that residents must apply for an Ogden Street parking permit to avoid ticketing and/or towing. She estimated the impact on value to be \$15,000. Respondent’s appraisal did not address this issue.

Ms. Atchison considered the subject's location within an AE flood zone to be a negative impact on marketability and value. Her cost for flood insurance was high.

Ms. Atchison reviewed Respondent's sales. Sales One, Two and Three were all superior in condition or location. Sales One and Two had been updated, and their basements had mother-in-law apartments, all indicating above-average condition. She considered Sale Four to be most indicative of value. It was most similar to the subject due to its placement behind its attached front home, its proximity to Porter Hospital, and its flood plain impact. Based on all factors, Ms. Atchison estimated market value at \$290,000.

Ms. Atchison compared the subject property's actual value increase of 8.3% to its attached neighbor (2460 South Ogden Street), which increased by only 4.8%. Average actual value on the block decreased by 2%.

Respondent presented a value of \$311,700 for the subject property based on the market approach. Respondent's witness, Diana L. Chilcutt, Certified Residential Appraiser, presented four comparable sales ranging in sale price from \$192,000 to \$329,000 and in size from 1,031 to 1,098 square feet. After adjustments were made, the sales ranged from \$251,500 to \$316,300. Sale Four was given no weight. Indicated value falls within the median range of Sales One through Three.

Ms. Chilcutt rated the subject's condition as "average". Deferred maintenance was typical for its age. She agreed that Sales One and Two had undergone updating and remodeling and made adjustments for same. She gave no additional weight to these sales' mother-in-law basement apartments; rental of such basement apartment was not legal.

Ms. Chilcutt described Harvard Park's mitigation for potential flooding as a concrete gulley for overflow. The AE flood plain has a 1% chance of annual flooding. She considered this neither significant nor a negative effect on value. In addition, the view of the park offsets any concern about the possibility of minimal flooding.

Ms. Chilcutt did not consider the subject's proximity to Porter Hospital to be an adverse marketing factor. She noted no greater traffic or noise on her visits and did not consider the necessity for a parking permit to impact value.

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

In comparing actual values, Petitioner is arguing equalization, which can only be considered if evidence or testimony is presented showing the assigned values were derived by application of the market approach and that each comparable was correctly valued; mass-appraised assigned values are not persuasive. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

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).

The Board considers the subject property to be in “average” condition. Based on Respondent’s testimony and interior photos, deferred maintenance appears to be typical for its age. The Board notes Respondent’s acknowledgement of updating and remodeling for Sales One and Two, for which the witness made adjustments. Petitioner did not convince the Board that Respondent’s condition adjustments were inaccurate.

While noting that basement rental units are illegal, the Board is not convinced they carry greater value than typically finished basements. No market data was presented by Petitioner to support adjustments.

The Board acknowledges the subject’s proximity to Porter Hospital, and the availability of parking permits is further support that excessive traffic and congestion exist. While Petitioner provided no market data in support of adjustments, the Board finds that this issue should be addressed.

The Board is not convinced that value is impacted by the home’s location within an AE flood zone. The potential for flooding is minimal. Petitioner presented no market support (paired sales) for a \$15,000 adjustment.

While Petitioner placed most weight on Respondent’s Sale Four, and although it has similarities to the subject, the Board has concerns about its comparability; reported quick-sale pricing, absence of legal entry from the street, lack of a basement. It is not considered a better comparable than Sales One through Three.

While the Board acknowledges Ms. Atchison’s expertise in the marketplace, she presented no market data to challenge Respondent’s sales or adjustments and offered no independent sales data. While the Board finds that the subject’s proximity to Porter Hospital is likely a marketing factor for the typical buyer, no evidence was offered regarding an adjustment. The Board is not convinced that a location adjustment would result in an indicated value lower than the assigned value of \$301,700.

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 28th day of April, 2014.



BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

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