

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 64294
<hr/> Petitioner: BRIAN J. ALLEN, v. Respondent: DENVER COUNTY BOARD OF COMMISSIONERS.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on October 16, 2014, Diane D. DeVries and James R. Meurer presiding. Petitioner, Mr. Brian J. Allen, appeared *pro se*. Respondent was represented by Charles Solomon, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2013.

Subject property is described as follows:

**1420 S. Clayton Street, Denver, Colorado
Denver County Parcel No. 05242-29-002-000**

The subject is a two-story, single-family frame house located in the University Park submarket in the south central section of the City and County of Denver. The house was constructed in 2004 subsequent to the demolition of the former structure, and includes 2,694 square feet of above-grade living area. There is a 1,481 square foot unfinished basement, and a three car garage. Heating is via gas forced air, and there is no air conditioning. Lot size is 6,250 square feet which is typical for the neighborhood. The overall condition of the property is reported to be average.

Petitioner is requesting an actual value of \$606,150 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of \$650,000; however, is deferring to the Board of Equalization's (BOE) assigned value of \$636,000 for tax year 2013.

Petitioner's witness, Mr. Brian Allen used the sales provided by the county, specifically the comparable located at 1300 S. Milwaukee after adjustment for site size and age, to support his conclusion of value. Relative to these sales, Mr. Allen testified that Respondent did not

properly adjust for age, lot size, basement finish, and quality of construction. After additional adjustment and for lot size and living area square footage and based on the averaging of the adjusted values for the comparables, Mr. Allen reconciled to a value of \$606,150. Mr. Allen further testified that there were errors in Respondent's appraisal that caused the concluded value to be suspect.

Respondent's witness, Mr. Rick Armstrong of the Denver County Assessor's Office, developed a market (sales comparison) approach and presented three comparable sales to support his opinion of value. All of the sales were located in the same submarket as the subject, and sale prices ranged from \$660,000 to \$839,900 prior to adjustments, and \$608,760 to \$656,000 subsequent to adjustments. All of the sales occurred in the statutory base period. The significant adjustments to the sales consisted of site size, quality of construction, age, condition, room count, living area square footage, basement and basement finish, hearing/cooling, and garage. Similar to Petitioner, Mr. Armstrong placed most weight to Comparable No. 1 located at 1300 S. Milwaukee St. which reflected an adjusted value of \$656,000. Mr. Armstrong reconciled to a final value of \$650,000 for the subject property.

Mr. Armstrong testified that his adjustments were supportable in the market, accounted for all of the differences in the physical characteristics between the subject and the comparables, and resulted in a supportable conclusion of value. Relative to the averaging used by Petitioner to conclude to value, Mr. Armstrong testified that simply using averages was improper appraisal technique, since this methodology does not account for differences in the multitude of physical and economic characteristics that might exist in the properties.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

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). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales, specifically Comparable No. 1 which required the least adjustments and was most similar to the subject, accurately reflect the market value for the subject property. The sales used by Respondent were all two story homes, were located in the same submarket as the subject, and were representative of the market during the required statutory period. The net adjustments to these comparables ranged from 0.6% to a 22.8%, which was supported by the narrative in the appraisal report, as well as testimony. The Board also concurs with Respondent and concludes that merely averaging adjusted values does not result in a credible conclusion of market value.

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-five 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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-five days after the date of the service of the final order entered).

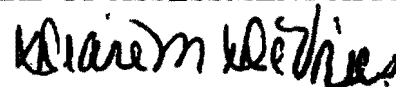
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

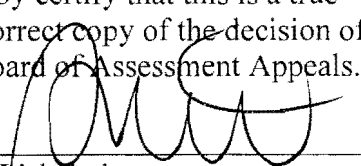
DATED and MAILED this 21st day of October, 2014.


BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

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



Milla Lishchuk

James R. Meurer