

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID W. AND TONI K. CURRAN,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 64460</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 9, 2014, Diane M. DeVries and Sondra W. Mercier presiding. David Curran, Petitioner, appeared pro se 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:

**1650 Fillmore Street, Unit 2105
Denver, Colorado 80206
Denver County Parcel No. 02363-03-286-286**

The subject property consists of a 1,009-square-foot residential condominium. The subject represents unit 2105, which is located on the top floor of a high-rise building, which was constructed in 2008. The subject also includes two tandem parking spaces located in the garage of the building. The subject was purchased by Petitioner in March 2012 for \$390,000. This sale represents a qualified sale that occurred within the base period.

Petitioners are requesting an actual value of \$365,000 for the subject property for tax year 2013. Respondent assigned a value of \$387,500 for the subject property for tax year 2013.

Petitioner presented nine comparable sales in addition to the sale of the subject. Of those, only three, plus the sale of the subject, were deemed to have occurred within the 18-month base period, identified as Unit 1505, Unit 1705, and Unit 2005. These three sales indicated sales prices ranging from \$340,000 to \$370,500. All three are within the same "stack" as the subject, offering

the same floor plan and square footage as the subject. Although Unit 2005 is most similar to the subject, Mr. Curran testified that it sold at a discount as an “all cash” sale.

Mr. Curran called his only witness, Todd Markus, a real estate agent with Kentwood Realty, to testify on behalf of Petitioners. Mr. Markus reported that the market was at a peak level when the Currans purchased, and that they had likely paid an above market price. Mr. Curran also provided photographs indicating that the subject’s parking spaces are tandem, not parallel, which he believes reduces the value of the parking.

Most important to Petitioners’ case was a comparison of the assigned value placed on the subject between the tax years 2012 and 2013. Mr. Curran demonstrated that the assessor’s value increased 12.1% for the subject over that time period, but values for nine other similar properties had increased between 1.2% and 5.9%. Petitioner also believes that his assigned value was based solely on the price he paid for the residence during the base period; however, other properties were not valued similarly. Mr. Curran contends that the value of the subject should be lowered “in fairness” based on the assigned values placed on other similar units in the building.

Respondent presented a value of \$390,000 for the subject property based on the market approach.

Mr. Behr, attorney for Respondent, called his first and only witness, Mr. James Voss, a staff appraiser at the Denver Assessor’s Office, to testify on behalf of Respondent. Respondent’s witness reported that he had not been allowed access to the subject property for purposes of an inspection. He analyzed the subject based on a quality and condition rating of “average” and concluded that the subject’s two tandem parking spaces were superior to those units with one space, but inferior to those units that included two parallel spaces.

Mr. Voss presented four comparable sales including the base period sale of the subject, indicating a range in sale price from \$370,500 to \$418,000 and in size from 1,009 to 1,157 square feet. Qualitative adjustments were made to the comparable sales, with no adjustment made to the actual sale of the subject. Based on the data and analysis, Mr. Voss concluded that the actual sale of the subject for \$390,000 was well supported by the comparable sales.

Respondent assigned an actual value of \$387,500 to the subject property for tax year 2013.

Mr. Curran noted that Respondent’s Sale 3 was of a larger, though adjacent unit, and that Sale 4 occurred in October 2010, prior to the base period.

The Board pointed out at hearing that Statute requires consideration of the market approach in the valuation of residential properties, which specifies the appropriate approach to value as follows:

“..the actual value of residential real property shall be determined *solely* by consideration of the market approach to appraisal.” (Section 39-1-103 (5)(a), C.R.S. (2005) (emphasis added.)

Although Petitioner presented three qualified comparable sales, no adjustments were applied and the analysis was inadequate to support Mr. Curran's conclusion of value. The Board finds that significant weight can be given to the actual sale of the subject that occurred within the last six months of the base period.

The Board gives minimal weight to Petitioners' methodology in using equalization and fairness in deriving a value for the subject. The Board can only consider an equalization argument (comparison of the assessor's assigned values) if evidence or testimony is presented showing that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Petitioner provided inadequate support for use of this methodology.

Respondent correctly applied the market approach to value the subject, giving consideration to the sale of the subject along with an analysis of comparable sales.

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

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 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-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 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 20th day of October, 2014.

BOARD OF ASSESSMENT APPEALS

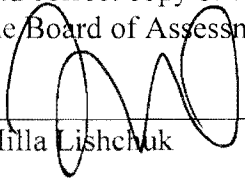


Diane M. DeVries



Sondra W. Mercier

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



Milla Lishchuk

