

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 65905

Petitioner:
HELEN STONER,
v.

Respondent:
ADAMS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 1, 2015, Sondra W. Mercier and Debra A. Baumbach presiding. Petitioner, Ms. Helen Stoner, appeared *pro se*. Respondent was represented by Kerri A. Booth, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**9381 Nagel Drive
Thornton, Colorado 80229
Schedule No. R0052379**

The subject property consists of a frame and brick veneer one-story residence built in 1955, located in the Thornton Subdivision. There are 1,176 square feet of above grade living area with three bedrooms and two bathrooms. Additional amenities include dual pane windows and central air conditioning. The lot size is 6,400 square feet.

Petitioner is requesting an actual value of \$120,000 for the subject property for tax year 2015. Respondent assigned a value of \$130,000 for the subject property for tax year 2015.

Petitioner described the subject property as a one-story residence having minimal amenities and updating. Petitioner testified that she has lived in her home for over 42 years and considers the property condition to be below average. Ms. Stoner testified that any improvements she has made to the property throughout the years have consisted mostly of repairs with some modest updates. Petitioner stated that the property does not have a garage or a carport. The driveway has large cracks and because of issues with the neighbors' gutters, her yard floods periodically. The interior carpet is over 30 years old; kitchen cabinets, one bathroom sink, tub and toilet are original dating back to

1955. In 2006, a shower was replaced because of large cracks in the walls. In the 1980s, butcher-block counter-tops were replaced in the kitchen and a third layer of shingles was applied to the roof over 20 years ago. The windows were replaced with dual pane windows with the help of an airport noise mitigation grant.

Ms. Stoner testified that a local Realtor provided her with a range of sales including two sales used in Respondent's analysis. After reviewing the sales, Ms. Stoner contended that Respondent utilized superior sales that sold at the higher end of market range. The sales were reported to include a significant degree of updating and amenities. According to Ms. Stoner, Respondent did not give sufficient consideration to the subject property's lack of updating and below average condition.

Ms. Stoner presented 12 sales located within the subject property's market area that varied in condition, amenities and updating. The sales ranged in sales price from \$96,550 to \$163,000 and all consisted of 1,176 square feet. Ms. Stoner did not make adjustments to the sales, instead citing similarities and differences in condition, physical characteristics and amenities. Ms. Stoner concluded to a value of \$120,000 based on the lower end of the range of sales with limited updating and similar condition.

Petitioner is requesting a 2015 actual value of \$120,000 for the subject property.

Respondent's witness, Mr. James W. Fuller, Certified Residential Appraiser with Adams County Assessor's Office, presented an indicated value \$135,510 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$140,000 to \$163,000; all three sales 1,176 square feet in size. After adjustments were made, the sales ranged in sales price from \$151,800 to \$173,325. Mr. Fuller applied proportional weight to each of the sales giving most weight to Sale 3 with secondary weight to Sale 2 and least weight to Sale 1. Mr. Fuller concluded to a total indicated percent value of \$159,602. Mr. Fuller concluded to a final market value of \$130,000 and indicated value of \$135,500.

Mr. Fuller testified that he was able to perform a full exterior and interior inspection of the subject property. He considered the subject property to be in average condition with some updating. Mr. Fuller stated he selected comparable sales similar in size, style, location and condition. Adjustments were made for all differences affecting the value. Mr. Fuller testified he adjusted Sale 1 5% downward for condition. He did not make any adjustments to Sale 2 for condition because he considered that Sale 2 updates were offset by the subject's updates. Mr. Fuller contended Sale 3 was reported as a rental property with no updates and limited amenities. That sale sold for \$140,000, and after being adjusted upward for time, the adjusted indicated value was \$151,800 supporting the subject's assigned value.

Mr. Fuller declined to consider six of Petitioner's 12 sales considering them as non-market transactions. Mr. Fuller testified that he did not have all of the information as to why Petitioner's sales were considered non-arms-length transactions; however, he believed that several of the sales were cash transactions or distressed sales.

Respondent assigned an actual value of \$130,000 to the subject property for tax year 2015.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Board of Assessment Appeals v Sampson*, 105 P.3d 916,920 (Colo. App. 2002). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced that Petitioner met that burden.

The Board finds Petitioner's argument credible regarding the subject property's overall condition and lack of updating. Petitioner provided the Board with interior photos of the subject property and 12 sales which included information regarding the condition, updating and financing terms. In addition, Petitioner provided the Board with sales information regarding Respondent's Sales 1 and 2.

After reviewing all the sales information, the Board was convinced Respondent did not adequately adjust the sales for condition or updating. Both Respondent's Sales 1 and 2 are far superior to the subject and the Board did not find Respondent's adjustments credible. While Respondent did make an adjustment for condition to Sale 1, no adjustment was made to Sale 2 for condition. Based on the information regarding Sale 1, the kitchen photo clearly depicts a recently updated kitchen with higher quality fixtures and finishes. Respondent's Sale 2 reported an updated kitchen including granite counter tops, oak cabinets, newer flooring and paint. The Board finds Respondent's adjustments inconsistent and unsupported. Respondent did not present any market support that the updating done to the subject property years ago is offset by recent updating done to Respondent's comparable sales. Respondent did not include any interior photos of the subject property refuting Petitioner's argument regarding the condition of the property. In addition, the Board did not find Respondent's indicated percent value of \$159,602 to be supported by the final market value of \$130,000 and indicated value of \$135,500. There was no analysis contained within the report as to how any of the values were determined and reconciled.

Further, Respondent could not specifically identify the factors as to why several of Petitioner's sales were considered non-market sales. At this level of appeal, it would have been prudent for Respondent to provide the Board with specific information as to why several of Petitioner's sales were considered non market and should be excluded from consideration. Although several of Petitioner's sales were cash transactions, the Board was not convinced that all cash transacted sales are non-market or that fix and flip sales are non-market transactions.

The Board concludes the value of the subject property should be reduced to \$120,000. The Board gave consideration to Respondent's three sales and Petitioner's 12 sales. The Board gave minimal weight to Petitioner's lowest sale and Respondent's highest sale. Taking into consideration the differences in condition, updating and amenities, Petitioner's value of \$120,000 is supported.

ORDER:

Respondent is ordered to reduce the subject's value to \$120,000 for tax year 2015.

The Adams County Assessor is directed to change their 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 28th day of December, 2015.

BOARD OF ASSESSMENT APPEALS



Sondra W. Mercier

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