

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

Docket No.: 67745

Petitioner:

TRACY MATTHEWS,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 30, 2016, Diane M. DeVries and Amy J. Williams presiding. Petitioner appeared pro se. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The Board admitted Petitioner's Exhibits 1 through 8, with Respondent's objection noted for Petitioner's Exhibit 3. Respondent's Exhibit A was also admitted.

The subject property is described as follows:

**441 South Holland Court
Lakewood, Colorado 80226
Jefferson County Account No. 075955**

The subject property is a 1,585 square foot, ranch-style, single family home and includes a 1,585 square foot basement and attached two car garage. Constructed in 1972 the residence includes three bedrooms, one full bath, one three-quarter bath, and one half bath. The subject sits on a 0.172-acre lot.

Petitioner is requesting an actual value of \$163,000 for the subject property for tax year 2015. Respondent assigned a value of \$304,980 for the subject property for tax year 2015, but is recommending a value of \$232,500.

Mr. Matthews testified that the subject residence is in poor condition, lacks appliances and kitchen cabinets, and is only partially finished. Mr. Matthews played a video tour of the inside and outside of the residence and basement area, further describing the condition of the property as the video played.

Mr. Matthews provided three comparable sales to support his opinion of value for the subject. Sale No. 1 sold for \$210,000, was a 1,251 square foot ranch-style residence with a partially finished basement and a one car garage. After adjustment, this sale supported a value of \$227,696 for the subject. Sale No. 2 sold for \$255,000, was a 1,378 square foot ranch-style residence with an unfinished basement and a two car garage. After adjustment, this sale supported a value of \$270,768 for the subject. Sale No. 3 sold for \$230,000, was a 1,557 square foot half duplex with an unfinished basement and two car garage. After adjustment, this sale supported a value of \$206,826 for the subject. Based upon the sales, after adjustment, a value of \$235,096 was indicated by Petitioner's Sales Comparison Approach. However, according to Mr. Matthews, this value did not account for the poor condition of the subject property.

Mr. Matthews also provided job cost and resale value figures from the Cost vs Value 2014 report. See Petitioner's Exhibit 3. Based upon the condition of his home and the resale value figures of the necessary remodel work, along with installation and product costs for carpet and hardwood flooring, he concluded that \$108,961 or \$108,000, rounded, should be deducted from the subject valuation to account for its poor condition.

Mr. Matthews, within Petitioner's Exhibit 8, submitted property tax valuation information on seven neighboring properties. Mr. Matthews testified that based upon this data he believes the subject property is being valued disproportionately high as compared to these neighboring properties.

Summarily, Mr. Matthews requested a value of \$163,000. concluding that the subject residence would be fairly valued at \$271,000 prior to accounting for condition and to that value a \$108,000 condition adjustment should be deducted ($\$271,000 - \$108,000 = \$163,000$).

At the hearing, Board Member Williams asked why Petitioner did not allow an inspection by Respondent. Mr. Matthews stated that none had been requested, specifically no request was made in writing and it was his understanding that a written request was necessary.

Respondent presented Ms. Patty White, Licensed Residential Appraiser employed by the Jefferson County Assessor's Office, as an expert witness. Ms. White testified that she was aware Mr. Matthews considered the property to be in poor condition. As there were no similarly sized comparables within the immediate neighborhood, Ms. White selected sales that were as closely located as possible and were of similar size and age.

Within Ms. White's Sales Comparison Approach, three comparable sales were presented. Sale No. 1 sold for \$272,000, was a 1,484 square foot, ranch-style house with a partially finished basement and a two car garage. After adjustment, this sale supported a value of \$329,900 for the subject. Sale No. 2 sold for \$287,300, was a 1,540 square foot, ranch-style residence with a partially finished basement and two a car garage. After adjustment, this sale indicated a value of \$322,100 for

the subject. Sale No. 3 sold for \$276,900, was a 1,556 square foot, ranch-style home with no basement and a two car garage. This sale indicated a value for the subject of \$300,000 after adjustment. Based upon the sales as adjusted within her report, Ms. White concluded to a value of \$317,500 for the subject.

Ms. White further testified that, based upon the video evidence of the subject property provided by Petitioner, she would recommend a condition adjustment to the above concluded value, essentially a cost to cure deduction, of \$85,000. Therefore, a value of \$232,500 was being recommended for the subject ($\$317,500 - \$85,000 = \$232,500$).

During cross examination, Mr. Matthews asked Ms. White her basis for an \$85,000 condition adjustment. Ms. White responded there was no basis. She also stated that an adjustment for condition was not made prior to the hearing as she had not been allowed to inspect the property.

Respondent assigned an actual value of \$304,980 to the subject property for tax year 2015, but is recommending a value of \$232,500.

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 evidence submitted at the hearing was sufficient to convince the Board that Respondent’s assigned value was incorrect. The evidence was also sufficient to convince the Board of the subject property’s value for tax purposes. See *Sampson*, 105 P.3d at 208 (The BAA members’ expertise enables them to determine from the evidence presented whether the county’s valuation is incorrect. The evidence may also be sufficient to further establish the subject property’s value for tax purposes).

The Board was convinced by the three sales of single family homes used by Respondent as comparable sales in Exhibit A. The Board finds that Respondent appropriately used these sales to establish the subject property’s value for tax purposes. The Board was not convinced by the comparable sales presented by Petitioner. Two of the sales selected by Petitioner were between 207 square feet and 334 square feet smaller than the subject and the third sale was the sale of half of a duplex property. Based on a detailed review of the comparable properties that were presented by both parties, the Board believes that Respondent’s comparable sales were more appropriate.

The Board was also convinced that Respondent applied appropriate adjustments to Respondent’s comparable sales to conclude to a well-supported value for the subject, if the subject was in average condition. However, ample evidence was presented to support the fact that the subject property was in poor condition. Respondent offered an unsubstantiated condition adjustment of \$85,000. Petitioner provided job cost and resale value figures from the Cost vs Value 2014 report which supported a condition adjustment of \$108,000. While the cost figures supplied by Petitioner in support of a condition adjustment are general in nature and not specific to the subject property, the Board finds Petitioner’s cost information to be the most credible evidence presented. Therefore, the Board concludes an appropriate valuation for the subject to be \$209,500. This valuation is based upon a \$108,000 condition adjustment deducted from Respondent’s valuation via the Sales Comparison Approach of \$317,500 ($\$317,500 - \$108,000 = \$209,500$).

In reaching this decision, the Board considered the evidence presented by Petitioner regarding the assessed values of other homes in his neighborhood. The assessor's valuation of similar property similarly situated is credible evidence. *See* Section 39-8-108(5)(b), C.R.S. The Board finds this evidence supportive of Petitioner's claim for a reduction. However, the evidence was not sufficient to support Petitioner's requested value of \$163,000.

Equalization, which is the act of raising or lowering the total valuation placed on a class or subclass of property within a designated territorial limit, does not account for the specific attributes of individual properties and, thus, is not a proper valuation method for an individual, residential property. *Arapahoe Cnty. Bd. of Equalization v. Podoll*, 935 P.2d 14, 17-18 (Colo. 1997). Rather, an assessor must determine the actual value of residential real property solely by considering the market approach to appraisal. *See Sampson*, 105 P.3d at 203 and Section 39-1-103(5)(a), C.R.S. This approach requires the assessor to determine what a willing buyer would pay a willing seller under normal economic conditions. *Id.*

ORDER:

The petition is granted. The 2015 actual value of the subject property shall be reduced to \$209,500. Jefferson County Assessor is directed to change 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 19th day of September, 2016.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Amy J. Williams

Amy J. Williams

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

Milla Lishchuk
Milla Lishchuk

