

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 68221

Petitioner:

GEORGE V. ROSSIE,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 31, 2016, Gregg Near and MaryKay Kelley presiding. Petitioner appeared *pro se*. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**4501 East 19th Avenue, Denver, Colorado
Denver County Schedule No. 01313-02-024-000**

The subject is a vacant 4,830 square foot lot. It is adjacent to a similar-sized lot owned by the city, and together they are known as Block 33 and are surrounded by alleys. The subject meets the criteria of a "carriage lot," which is defined as "a parcel of land completely surrounded by alleys in the center of a block which has no front line of a zone lot." Per Denver City Council's Blueprint Committee Summary dated October 8, 2008, "[I]acking frontage on a named or numbered street, a carriage lot is not a legal zone lot. The only structure that can be built on it is a **garage**, and that only if the lot is owned by someone with their primary residence located in the block surrounding the carriage lot." See Petitioner's Exhibit 5. Petitioner owns both the subject lot and his primary residence located on an adjacent street.

Respondent assigned an actual value of \$47,300 for tax year 2015 but is recommending a reduction to \$14,400. Petitioner is requesting a value of \$4,800.

Mr. Rossie testified that the subject's actual value of \$47,300 equates to \$9.79 per square foot. He presented the actual values for five carriage lots, equating to \$.26, \$.02, \$10.06, \$22.78, and

\$23.18 per square foot. He argued that these values were arbitrary and capricious and requested that the subject lot be assigned the same value as that assigned for tax year 2014 (\$4,800) or \$1.00 per square foot.

Respondent presented a Sales Comparison Analysis concluding to a value of \$14,400. Respondent's witness, Kimberly A. Lust, Ad Valorem Appraiser for the Denver County Assessor's Office, presented three comparable sales. Their sizes were 6,560, 6,390, and 4,870 square feet, respectively. Their sale prices were \$21,000, \$29,000, and \$30,500, respectively. After a size adjustment, their adjusted sale prices were \$18,900 (\$2.88 per square foot), \$26,100 (\$4.08 per square foot), and \$29,585 (\$6.07 per square foot). Greatest weight was assigned to Sale One (proximity) and Sale Two (most current) for a conclusion of \$3.00 per square foot, or \$14,400.

Ms. Lust agreed with Petitioner that arbitrary values had been assigned in the past; thus, a review was performed, an appraisal completed, and the subject's actual value increased but was based on market comparisons.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value.

Petitioner argued that the subject was not valued equally to other similar properties. While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under statute or the constitution.

The Board can consider an equalization argument as support for the value determined using the market approach. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P.2d 14, 16 (Colo. 1997). For an equalization argument to be effective, Petitioner must also present evidence or testimony that the assigned value of the comparable used was also correctly valued using the market approach. As that evidence and testimony was not presented, the Board gave limited consideration to the equalization argument presented by Petitioner.

Section 39-1-103(8)(a)(I), C.R.S. indicates: "Use of the market approach shall require a representative body of sales, including sales of a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes." Respondent's witness appropriately applied the market approach to value the subject lot, comparing sales of carriage lots and adjusting for differences. The Board determined that Respondent's valuation is persuasive and supportive of Respondent's value recommendation for the subject.

ORDER:

The petition is granted. Respondent is ordered to reduce the subject's 2015 actual value to Respondent's recommended value of \$14,400.

Denver County Assessor is ordered to amend 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 15th day of June, 2016.

BOARD OF ASSESSMENT APPEALS



Gregg Near

Gregg Near

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