

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

Docket No.: 68264

Petitioner:

ELIZABETH A. AND Z. L. PEARSON, JR.,

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. Z. L. Pearson, Jr. appeared *pro se* on behalf of Petitioners. Respondent was represented by Noah Cecil, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**1551 Larimer Street, Unit 503, Denver, Colorado
Denver County Schedule No. 02331-16-045-045**

The subject is a residential condominium unit on the fifth floor of Larimer Place, a high-rise building with 32 floors, 168 units, and underground parking. Amenities include security and 24-hour front desk, fitness center, pool, and tennis court.

Respondent assigned an actual value of \$242,000, which is supported by an appraised value of \$378,200. Petitioners are requesting a value of \$223,900.

Petitioners disputed the Assessor's assigned 1,422 square feet for the subject unit, arguing that it should not include the 107 square feet attributed to the enclosed balcony and should read 1,315 square feet. Referencing the definitions within the subject property's Amended Declaration of Covenants, Conditions and Restrictions, Mr. Pearson defined the subject's enclosed balcony as a "general common element," which should be proportionately assessed to all owners.

Mr. Pearson did not present an independent analysis of comparable sales. His sole argument was exclusion of the enclosed balcony in valuation. Petitioners' requested value of \$223,900 was based on the recalculation of Respondent's \$242,000 assigned value without the 107 square feet of enclosed balcony and reclassification of the balcony as a general common element with proportional interest of .0045553 assigned to all condominium owners within the building.

Mr. Pearson argued that exterior photographs of Respondent's Sales One through Three showed enclosed balconies yet the balconies' square footages were not accounted for in the analysis.

Respondent's witness, Mr. Jesse Odle, Licensed Appraiser for the Denver County Assessor's Office, argued that the subject's enclosed balcony was a "Limited Common Element" as defined by the subject's own Amended Declaration of Covenants, Conditions and Restrictions: "any approved balcony enclosure shall ... become part of the Limited Common Elements to which it is attached." (See Petitioner's Exhibit 1, Appendix B, at page 17). Mr. Odle included the 107 square foot enclosed balcony in his 1,422 square feet calculation of the subject's living space.

Mr. Odle presented a Sales Comparison Analysis with five comparable sales, three of them within the subject building. They ranged in sale price from \$348,500 to \$541,500. After adjustments, the sale prices ranged from \$331,300 to \$471,300. Mr. Odle placed greatest weight on Sale One and concluded to a value of \$378,200 for the subject.

Mr. Odle did not have information whether his Sales One through Three had enclosed balconies. However, in the event they did, he recalculated his analysis as if the balconies were enclosed and included in prime living space. Mr. Olde determined that even taking into the consideration the recalculated values, Respondent's value conclusion remained the same.

Respondent presented sufficient probative evidence and testimony to prove that the enclosed balcony area was correctly classified as prime living space. The Board finds this conclusion consistent with the subject's own Amended Declaration of Covenants, Conditions and Restrictions, which specifically defines enclosed balconies as Limited Common Elements reserved for the use of individual owners. As such, Respondent appropriately included the square footage of the subject's enclosed balcony in the subject's square footage when determining actual value.

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time and a variety of characteristics. The Board found Respondent's 2015 value conclusion for the subject property persuasive and supported by probative evidence.

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 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

MaryKay Kelley**

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

Milla Lishchuk