

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 69082

Petitioner:

ROBERT M. KRUEGER,

v.

Respondent:

GARFIELD COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 6, 2017, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Katharine A. Johnson, Esq. Petitioner is protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**100 Clearwater Road, Carbondale, Colorado
Garfield County Schedule No. R0340495**

The subject is a bi-level elevation with a partially-finished basement and a two-car garage. It was built in 1978 on a 6,000-square foot lot in the Crystal Village Subdivision.

Respondent assigned an actual value of \$468,960 but is recommending a reduction to \$460,000. Petitioner is requesting a value of \$434,543.

Mr. Krueger purchased the property in 2014 for \$485,000. He described the home's inadequacies, one of them being the original furnace, which works intermittently and is nearing the end of its productive life with replacement estimated at \$3,000 to \$7,000. Second, he displayed examples of rotting window frames, two of which he has already replaced. Third, the witness stated that the sewer has backed up five times requiring intervention, and neither the stove light nor vent has worked since purchase.

Mr. Krueger described the multi-family structure to the rear of his property. He considered it an eyesore and a negative influence on value and argued that Respondent's appraisal should have included an adjustment for economic obsolescence.

Mr. Krueger presented three neighborhood properties, which he described as being superior to the subject in age, size, number of bedrooms and bathrooms, total number of rooms, and heat source. He then compared the actual values of the subject for tax years 2013 and 2015 to actual values of the three neighborhood properties that he selected, arguing that the value increase of his home was markedly greater at \$195,270 compared to the increase of the three comparables (\$169,140, \$184,270, \$163,150). After application of \$7,500 for economic obsolescence, he concluded to a value of \$434,543.

Respondent's witness, Maggie Bowker, Ad Valorem Appraiser for the Garfield County Assessor's Office, presented a Sales Comparison Analysis with four comparable sales ranging in sale price from \$391,700 to \$515,100. She made adjustments for time, lot size, condition, bathroom count, size, basement size and finish, heat source and garage, concluding to an adjusted range of \$445,935 to \$464,935. She concluded to the median of the three adjusted values of \$460,000, rounded.

Ms. Bowker assigned "average" condition to the subject based on an exterior-only inspection. She testified that the furnace, despite its age and sporadic performance, remained operable and would not impact her value conclusion. She considered the rotting window frames, inoperable stove light and fan, and sewer back-ups to reflect "average condition" that was addressed in her appraisal. She also disagreed with Petitioner's contention that the multi-family structure was a negative impact on value and declined an adjustment for external depreciation.

Petitioner presented an equalization argument, comparing the subject's assigned value to the assigned values of properties in the same subdivision. The Board can consider an equalization argument if evidence or testimony is presented showing that the assigned value of the comparables used was derived by application of the Market Approach. As that evidence and testimony was not presented, the Board gives limited weight to Petitioner's equalization argument. *Arapahoe County Board of Equalization v. Podoll*, 935P.2d 14 (Colo.1997).

Respondent adhered to statute, valuing the subject by the Market Approach. The Board has some concern about Respondent's initial misidentification of the subject's elevation (ranch rather than bi-level) and comparison with ranches and two stories when the market recognizes various elevations differently. However, the witness otherwise applied appropriate appraisal methodology, and the Board gives greater weight to Respondent's appraisal.

The Board finds that the multi-story structure to the rear of the subject carries a negative influence based on view and lack of privacy. However, Petitioner provided neither testimony nor evidence on which to base an adjustment.

The Board is persuaded that the furnace is nearing the end of its functional life. The expense of a new furnace is significant and should be addressed independently of other adjustments

appraisal. Petitioner estimated replacement cost to be \$3,000 to \$7,000 but provided no evidentiary support for his estimate. The Board has no basis for an adjustment.

The Board finds that the condition of other items discussed by Petitioner (window frames, stove vent and light) has been adequately addressed by Respondent. Also, sewer backups attest to the age of the house and its condition, which the Boards finds has been adequately addressed by Respondent's valuation analysis.

The Board finds that Respondent's 2016 value for the subject of \$460,000 is well-supported. Petitioner did not present sufficient probative evidence to warrant a reduction from Respondent's value conclusion.

ORDER:

Respondent is ordered to reduce the subject's 2016 value to Respondent's recommended value of \$460,000. Garfield County Assessor is directed to update 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 1st day of May, 2017.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

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

Milla Lishchuk

