

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>CUSACK, KEITH AND DENEIN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 69717</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on July 17, 2017, Debra Baumbach and Amy J. Williams presiding. Mr. Cusack appeared pro se on behalf of Petitioners. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioners are protesting the 2016 actual value of the subject property.

The parties stipulated to the admission of Petitioners' Exhibit 1 and Respondent's Exhibit A.

The subject property is described as follows:

**1716 Viewpoint Road  
Lakewood, Colorado 80215  
Jefferson County Schedule No. 057252**

The subject property, according to Respondent, is a two-story residence with 1,263-square feet of residential living area on the second floor, 508 square feet of lower level living area and 964 square feet of garage area, located on a 2.39-acre site. The subject residential building was built in 2009 of wood frame construction with a stucco exterior and is of average to good quality in average condition.

Petitioners are requesting an actual value of \$528,821 for the subject property for tax year 2016. Respondent assigned a value of \$825,000 for the subject property for tax year 2016.

Mr. Cusack, Petitioner, reviewed his property characteristics, stating that his property was located in the Applewood Neighborhood, on a large, 2.39-acre parcel with ditch easements that impacted over one acre of the lot. He described his residence as a one bedroom, one bath home above a larger, three-car garage with storage area which was constructed as an emergency “place holder” when his then current residence was destroyed by fire. While the first level was constructed to accommodate two bedrooms and a living room with a bathroom, it is no longer utilized for anything but storage and three garage spaces. Furthermore, Mr. Cusack testified that the size and layout of the residential improvement is awkward and undesirable relative to the quality of the site.

Mr. Cusack, referencing Exhibit 1, testified to four comparables he selected to support his requested value. These sales sold in a range between \$425,000 and \$770,000, and after adjustment indicated a value of \$528,821 for the subject property. Mr. Cusack testified that his sales were all located within a couple miles of his house and were a better indication of value than the sales selected by Respondent.

Petitioners are requesting a 2016 actual value of \$528,821 for the subject property.

During cross examination, Mr. Cusack reported that his property is zoned large lot, single family residential allowing livestock, and that this zoning only allows one home per lot. He also stated that his lot was steep making access to the north half difficult, though affording expansive views in that direction.

Respondent called Ms. Betsy Anne Powers, Appraiser, Jefferson County Assessor’s Office, as a witness. Ms. Powers testified that the Jefferson County Assessor’s Office describes the subject as a raised ranch style home due to the kitchen being located on the second floor. This description also categorizes the first floor as basement. Ms. Powers testified that while the first floor is currently being used for storage and garage, the typical buyer would use a portion of the first floor as living area. Referencing Exhibit A, Ms. Powers discussed the Sales Comparison Approach for the subject. Four sales were utilized, ranging in sale price from \$481,500 to \$965,000. After adjustment, the indicated value range changed to \$786,000 to \$908,900. Ms. Powers reported that she placed most weight on Sale No. 2 located at 2115 Routt Street. Further, Ms. Powers indicated that the subject likely could be split into more than one parcel; there was no reason to believe it could not be divided.

Based upon the sales and analysis presented, Ms. Powers concluded to a value for the subject of \$825,000 via the Sales Comparison Approach.

During cross examination, Ms. Powers reported that she had not bought or sold a property personally in the last five years. She testified that she viewed the exterior of each of the comparables. She also testified that she was aware of the ditch, but was not aware of any easements related to the ditch. When asked by the Board, Ms. Powers reported that an appropriate land value for the subject would be \$564,430.

Respondent assigned an actual value of \$825,000 to the subject property for tax year 2016.

Sufficient probative evidence and testimony was presented to prove that the tax year 2016 valuation of the subject property was incorrect.

Based upon the evidence and testimony presented, the Board finds Petitioner's testimony regarding use and configuration of residential square footage versus storage/garage square footage to be persuasive. From this testimony, it is evident that the residence is an under improvement relative to its site. Neither Petitioners nor Respondent provided sales which spoke directly to the contributory value of an under improvement similar to the subject. However, considering Respondent failed to even recognize the improvements as such, the Board finds Petitioners' sales and sale adjustments to be more credible than Respondent's. Therefore, a value of \$528,821 is concluded for the subject property.

**ORDER:**

The petition is granted. The Jefferson County Assessor is directed to change the assessment records of the subject property to reflect a value of \$528,821 for tax year 2016.

**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 7<sup>th</sup> day of August, 2017.

BOARD OF ASSESSMENT APPEALS

*Debra A. Baumbach*

Deborah Baumbach

*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

