

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID R. THURMAN,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70270</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 17, 2017, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Charles Solomon, Esq. Petitioner is protesting the 2016 classification of the subject property.

Subject property is described as follows:

**2200 Stuart Street, Denver, Colorado
Denver County Schedule No. 02311-38-006-000**

The subject is a residential site located in the Sloan’s Lake Subdivision.

Respondent assigned *vacant land* classification for tax year 2016. Petitioner is requesting *residential* classification.

Mr. Thurman testified that he purchased the subject property in 2014 and thereafter demolished the existing structure. Plans to pour a new foundation in November of 2015 were delayed by inclement weather. He acknowledged that no work had been done as of the assessment date of January 1, 2016.

Respondent’s witness, Irvin Alumno, Licensed Appraiser with the Denver County Assessor’s Office, made a site visit on January 1, 2015 at which time he observed completed demolition of the original structure. Another inspection on January 1, 2016 revealed no new construction.

Mr. Alumno cited the Assessor’s Reference Library (ARL), which requires that a “completed structural foundation for a residential improvement must be in place on January 1st to meet the ‘dwelling unit’ minimum requirement set out by the Constitution and the Court of Appeals for a property to be classified as residential.” ARL, Vol. 3, at 6.9.

Mr. Alumno testified that while he was sympathetic to Mr. Thurman’s inability to proceed with the construction due to weather-related delays, he was bound by statute and the ARL and unable to assign residential classification to the subject.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly classified for tax year 2016.

Section 3(1)(b) of article X of the Colorado Constitution requires that residential real property include a residential dwelling unit. Volume 3, Chapter 1 of the ARL explains that to meet the Constitutional “dwelling unit” minimum requirement, a “completed structural foundation” must be in place on January 1. The evidence before the Board was uncontroverted that there were no improvements on the subject property as of January 1 assessment date.

The Board is convinced that no improvements, including a foundation, were in place on January 1, 2016. The subject property, therefore, cannot be classified as residential.

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 5th day of December, 2017.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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

