

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WALTER H. MOONEY,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71648</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 9, 2018, Diane DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**16606 County Road 126, Pine, Colorado
Jefferson County Schedule No. 300034437**

The subject property consists of two structures on a 1.139-acre site in the mountain community of Pine. Improvement One is a 671 square-foot two-story home built in 1890. Improvement Two is a 697 square-foot one-level home built in 1890. The site, sloping and forested, is accessed via 7th Street.

Respondent assigned a value of \$145,142 for tax year 2017, which is supported by an appraised value of \$172,200. Petitioner is requesting a value of \$79,000.

Mr. Mooney testified that Improvement One (living area, kitchen, bathroom, porch, and second floor bedroom) is serviced by electricity, well, and septic. He uses it seasonally, draining water lines that would otherwise freeze below 50 degrees. The one propane heater (attached to a wall) is insufficient to warm all rooms in colder months.

Mr. Mooney considered Improvement Two to be a storage-only structure that has not been occupied for over fifty years. Further, it has neither kitchen (wood cook stove only) nor bathroom (chamber pot only) and is without electricity, heat, and plumbing. While Respondent described a water line to the interior, Mr. Mooney reported its origin as a stream but denied a connection to the improvement.

Mr. Mooney did not consider Respondent's sales comparable because of their year-round livability with central heat. Alternatively, he presented three sales: 16885 7th Street with 548 square feet and a sale price of \$14,250; 28717 Park Avenue with 775 square feet and a sale price of either \$10,000 or \$15,000; and 15860 South Elk Creek Road with 528 square feet and a sale price of \$63,000. No adjustments were made to the sales. He considered his requested value of \$79,000 to be a reasonable increase from the prior valuation and his three sales to be supportive.

Respondent's witness, Todd P. Enyeart, Certified Residential Appraiser for the Jefferson County Assessor's Office, considered Improvement One to be a year-round structure, not "seasonal", which he defined as without utilities. His three comparable sales, all with year-round occupancy, ranged in sale price from \$117,500 to \$175,000 and in adjusted sale price from \$148,100 to \$197,700. He concluded to an indicated value of \$172,200.

Mr. Enyeart's adjustments included differences in design and acreage. He valued the comparable sales' one-level plans higher than Improvement One's two-story plans due to their larger building footprints and greater construction costs. He assigned the subject's 1.139 acres greater value than the comparable sales' smaller acreages in part because one acre is required for well and septic.

Mr. Enyeart considered Improvement Two to be a year-round livable structure, in part because it had a water line. He assigned a value of \$50,187.

Mr. Enyeart disregarded Petitioner's comparable sales. Sale One's price included multiple properties. Sale Two was a foreclosure with no utilities. Sale Three had no utilities.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

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." While Respondent's witness adhered to the Statute by presenting a Sales Comparison Approach with adjustments for differences, Petitioner did not.

The Board finds that some of Respondent's adjustments are not market based. First, the Board questions Mr. Enyeart's adjustments for one versus two-story homes. While this is true and has application in some markets, the Board is not convinced that the subject's market (mountain community with a variety of housing uses, ages, and construction types) recognizes this difference.

Second, Mr. Enyeart based his acreage adjustments on both size and zoning (one-acre minimum required for well and septic). The Board notes that these are not vacant sites with zoning at issue. Both the subject and the comparable sales are improved with utilities in place; zoning is not relevant. The only factors affecting lot size are privacy and view. While the Board is convinced that acreage adjustments are likely appropriate, Mr. Enyeart's range of \$8,300 to \$22,300 was not supported.

The Board finds Mr. Mooney to be a credible witness. It is convinced that Improvement One has insufficient heat, insulation, and plumbing for year-round use. It is also convinced that Improvement Two is without utilities and should be valued as storage.

The Board gives little weight to Petitioner's comparable sales because they are either invalid or lack sufficient data to consider. The Board also finds insufficient data to re-calculate Respondent's appraisal and is further unconvinced that different adjustments would result in a value lower than that assigned (\$145,142).

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 16th day of April, 2018.

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

