

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BRIAN J. ALLEN,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71751</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 13, 2018, Diane DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Charles T. Solomon, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board admitted Petitioner’s Exhibits 1 and 2 and Respondent’s Exhibits A, B and C.

Subject property is described as follows:

**1420 South Clayton Street, Denver, Colorado
Denver County Schedule No. 05242-29-002-000**

The subject is a 2,694 square-foot two-story residence with basement and garage. It was built in 2004 on a 6,250 square-foot site in the Cory Merrill neighborhood.

Respondent assigned an actual value of \$889,500 for tax year 2017 but is recommending a reduction to \$850,000 based on appraisal. Petitioner is requesting a value between \$766,100 and \$781,700.

Mr. Allen built the subject property in 2004, having demolished the existing structure. He described his finishes as lower quality than that of the surrounding neighborhood; frame exterior, intermediate-quality cabinetry and fixtures, Formica countertops, lower-quality wood flooring and carpet, freestanding appliances, and vinyl windows. In addition to a dated interior, he described

deferred maintenance; one broken window frame and damaged patio door, worn carpet, and an interior in need of paint.

Mr. Allen presented five properties on page two of Exhibit 1. Similar to the subject in size, they were built or substantially remodeled between 1997 and 2004. Mr. Allen noted the Assessor's assigned construction quality of Grade C for the subject in comparison to Grade B for four of the five comparables. Mr. Allen considered properties three, four and five to be most similar, and the average of their actual values was \$766,100, which is the lower end of his requested value range.

Of the three most similar properties mentioned above, Mr. Allen considered 1400 South Clayton Street to be most similar in size. Using the Assessor's calculations, he adjusted the actual value of \$733,600 for size (+\$3,700), basement size (+\$13,900), basement finish (-\$18,000), garage bays (+\$15,000), air conditioning (-\$2,500), and age (+\$36,000). He concluded to an adjusted actual value of \$781,500, this being the upper end of his requested value range.

Mr. Allen cited Section 39-8-108(5)(b), C.R.S., which states that "the Assessor's valuation of similar property is credible evidence". He further stated that evidence doesn't have to be a sale. Mr. Allen pointed out that 1400 South Clayton Street is similar in size and is located next door.

Respondent's witness, Rick Armstrong, Certified Residential Appraiser for the Denver County Assessor's Office, inspected the subject property and confirmed Petitioner's examples of deferred maintenance. He also discussed the assignment of Grade C construction quality, considering the subject between a Grade B and Grade C (tract quality), noting that the subject was custom built with tract finishes.

Mr. Armstrong presented a Sales Comparison Analysis with three comparable sales ranging in sale price from \$845,000 to \$974,000. After adjustments for market conditions, age, size, basement size and finish, functional utility (dated interior and deferred maintenance), air conditioning, and garage, he concluded to an adjusted range from \$844,495 to \$860,091. Relying on Sales One and Two, he concluded to a value of \$850,000.

Mr. Allen questioned Mr. Armstrong's lack of adjustments for exterior frame construction in comparison with his comparable sales (stucco and brick/stone) and for the home's vinyl windows. Mr. Armstrong did not consider that either impacted value.

Petitioner presented insufficient probative evidence to convince the Board that the 2017 value of the subject property should be reduced below the value recommended by Respondent of \$850,000.

Petitioner presented evidence using the actual values of other properties. Pursuant to Section 39-8-108(5)(b), C.R.S., equalization evidence (which includes the assessor's valuation of similar property similarly situated) is credible evidence. However, pursuant to Section 39-1-103(5)(a), C.R.S., actual value of residential property shall be determined solely by consideration of the market approach. The Board has admitted and considered Petitioner's equalization evidence, which consists of actual values of five properties (Exhibit 1, page 2) and a comparison of 1400 South Clayton Street using its actual value and Respondent's adjustments. In contrast, Respondent presented a market

analysis of three similar sales adjusted for market conditions and a variety of characteristics. The Board finds Respondent's market approach to be more credible.

Mr. Allen discussed the subject's deferred maintenance (broken window frame and damaged patio door, worn carpet, and an interior in need of paint) and dated interior (lower-quality cabinetry, fixtures, and appliances). Although Respondent's witness addressed both issues as functional obsolescence, the Board finds that deferred maintenance should have been addressed in the condition line item, not as functional obsolescence. Also, while the Board finds that Mr. Armstrong's adjustments for curable functional obsolescence were not well supported, Petitioner did not provide sufficient probative evidence to support a greater adjustment, if any.

The parties disagree about the marketability and value of exterior stucco/brick/stone versus frame. They also disagree about the marketability and value of window material (aluminum, vinyl, wood, and fiberglass). Petitioner did not provide sufficient probative evidence to support additional adjustments, if any, for these features or lack thereof.

The Board is convinced that Respondent's value conclusion, which relied on the market approach, is more credible. Petitioner did not provide sufficient probative evidence to prove that Respondent's reduced valuation of the subject at \$850,000 for tax year 2017 is incorrect.

ORDER:

Respondent is ordered to reduce the subject's 2017 value to \$850,000.

Denver 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).

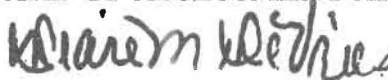
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 5th day of October, 2018.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



MaryKay Kelley

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



Milla Lishchuk