

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 73539

Petitioner:

DAVID DONNA LLC,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 10, 2018, Debra Baumbach and MaryKay Kelley presiding. Petitioner was represented by David Halberstam, Member, LLC. Respondent was represented by Michael Koertje, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board admitted Petitioner's Exhibit 1 and Respondent's Exhibits A, B and C.

Subject property is described as follows:

**1360 Walnut Street, Unit 212, Boulder, Colorado
Boulder County Schedule No. R0509999**

The subject is a 1,912 square-foot condominium with two parking spaces in the basement garage. It was built in 2005 on the second floor of a three-story building in downtown Boulder and was purchased by Petitioner in 2012.

Respondent assigned an actual value of \$1,118,000 for tax year 2017. Petitioner is requesting a value of \$915,000.

Mr. Halberstam testified that the closing date on the 2012 purchase was delayed by six months due to the absence of a Certificate of Occupancy and to the following issues: leaks in two bathrooms; irregular cable wiring; and irregularities with the kitchen stove and sink drain. The closing took place following expenses of \$70,000 to \$75,000 and issuance of the Certificate of

Occupancy. The problems have not been thoroughly resolved per Mr. Halberstam and should be addressed in valuation.

Petitioner's witness, Mills H. Ford, Certified General Appraiser, described the subject unit as custom built with Brazilian cherrywood, granite counters, upgraded appliances, and stone/marble flooring. It enjoys a corner location with two private balconies. He concurred with Mr. Halberstam's description of physical deficiencies, specifically leaks in a spa tub and three improperly-installed toilets.

Mr. Ford presented a Sales Comparison Analysis with five comparable sales, all located within the subject building and ranging in sale price from \$710,000 to \$925,000. He made adjustments for market condition, size, construction quality, condition, balconies, and parking spaces. His adjusted sale price range was from \$783,872 to \$1,047,793. With a mean of \$913,125 and a median of \$917,460, he concluded to an indicated value of \$915,000.

Mr. Ford's condition adjustment of \$30,000 was based on a Nelson Wise Corporation estimate to cure the above-mentioned issues.

Mr. Ford discussed a slowing market throughout the base period for attached properties, which he described as impacted more severely during the economic downturn of 2008 than detached properties. He applied a linear regression analysis to determine a market change adjustment. It involved MLS-reported sales of attached properties (condominiums and town homes) in the City of Boulder. He applied a price range of \$500,000 to \$2,500,000 for a 24-month base period and derived a sampling of 300 sales. He acknowledged that his comparable sales were among the 300 properties in the sampling, although neither their addresses nor actual sale prices were reported. Based on average and median prices, he concluded to an annual increase of 2.5%.

Respondent's witness, Ricardo Galvan, Certified Residential Appraiser for the Boulder County Assessor's Office, described the subject unit as custom built with a traditional finish. He presented a Sales Comparison Analysis with five comparable sales ranging in sale price from \$925,000 to \$1,325,000 (Sales One and Two in the subject building and others in competing buildings). He made adjustments for market change, size, bathroom count, condition (effective year), traditional versus industrial finish, and parking.

Mr. Galvan based his time adjustments on statistical analysis (discussed by witness Danielle Simpson) and paired sales within the subject building, both with "urban-industrial" finishes. They sold two years apart, the first being \$710,000 in May of 2014 (Unit 302) and the second being \$925,000 in May of 2016 (Unit 202).

Mr. Galvan found insufficient data with which to determine an adjustment for the unit's physical deficiencies. Considering them primarily related to problems in the bathrooms, he took the deficiencies into account when making his bathroom count adjustments.

Mr. Galvan testified that, based on research, traditionally-finished condominiums like the subject unit carried more value than "urban-industrial" finish (open floor plan, exposed ceilings,

corrugated steel). Assessor's Office regression analysis methodology determined the difference to be \$75,000, which was applied to Sales One and Two for their industrial-styled interiors.

Respondent's witness, Danielle Simpson, Boulder County Assessment Analyst, discussed the market change adjustment used in Mr. Galvan's analysis. Her parameters were attached properties (condos and town homes) in the City of Boulder with sale prices between \$500,000 and \$2,500,000. She discarded non-arm's-length transactions, properties not remodeled after the assessment date, and new and partial construction. Deriving sales from the county web site, MLS, for sale by owner, and TD 1000 for a five-year period, her sampling resulted in 3,195 condos and 2,592 town homes. She saw a 31.1% increase over the 24-month base period and based adjustments for each comparable sale used by Mr. Galvan on per-month factors calculated to the June 30, 2016 appraisal date.

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

The significant differences between the two analyses are adjustments for the unit's physical deficiencies, market change adjustments, and Mr. Galvan's \$75,000 adjustments for traditional versus "urban-industrial" finish.

Mr. Ford's \$30,000 adjustment for the unit's deficiencies is based on a contractor's estimate. Mr. Galvan, unable to define the extent of the problem, made a nominal bathroom adjustment. Despite the absence of testimony from the contractor, the Board finds Mr. Ford's adjustment supported.

With regard to market change, the Board finds Ms. Simpson's testimony convincing. Her statistical analysis involves sold data from a variety of sources throughout a five-year period. It also derives different rates of appreciation and, therefore, appoints a specific factor per month. In addition, Mr. Galvan supported his adjustment with a paired-sales analysis. Mr. Ford's analysis is based on a smaller, questionable sampling and concludes to a 2.5% increase per year, which he divided by the number of months from closing dates to the appraisal date. Ms. Simpson's analysis is considerably more thorough and market based.

Mr. Galvan made adjustments of \$75,000 to Sales One and Two for their interior "urban-industrial" finishes. He testified that these adjustments were derived from regression analysis based on modeling. Petitioner did not question these adjustments and provided no contrary testimony or evidence.

The Board considers Respondent's appraisal the reliable due to its better-supported market change adjustments. Applying Petitioner's \$30,000 adjustment to Respondent's sales for the subject's physical deficiencies, the adjusted range is \$1,015,260 to \$1,279,320. The Board finds that sales within the subject building are the best representatives of market value. Adjusted sale prices are \$1,272,460 for Sale One and \$1,015,260 for Sale Two. Sale One is more similar in size and, thus, is given more weight. Overall, Respondent's appraisal supports the subject's assigned value of \$1,118,000 for tax year 2017.

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 3rd day of January, 2019.

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

