

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

Docket No.: 73641

Petitioner:

ELAINE J. RAINS,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 7, 2019, MaryKay Kelley and Samuel M. Forsyth 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 parties agreed to the admittance of the following exhibits: Petitioner's Exhibits 1-3, 5-9, 11-32 and Respondent's Exhibit A.

Subject property is described as follows:

**7925 W. Layton Avenue, Unit 416
Parcel No.: 09113-01-012-012
Denver, CO 80123**

The subject property consists of a 2-story condo containing 1,632 square feet on the first and second floors and an unfinished basement consisting of 783 square feet. There are two full baths and one half bath and three bedrooms. Year of construction is 1974. The condo sits in a row of six attached condos (including the subject); the subject lies in the interior of the row of condos. The subject condo lies two units south of South Wadsworth Boulevard.

Petitioner is requesting an actual value of \$148,000 for the subject property for tax year 2017. Respondent assigned a value of \$220,000 for the subject property for tax year 2017 but is recommending a reduction to \$187,100.

Petitioner objected to the assigned value, citing negative aspects within the subject property, selection of comparable sales, adjustments and value conclusion.

The property is proximate to South Wadsworth Boulevard, a four-lane thoroughfare. Wadsworth is noisy with significant smoke and exhaust, and high speeds have resulted in occasional racing and one airborne incident. There are amplified announcements emanating from the tire repair shop across the street. The gas station across Wadsworth with late-night fuel deliveries and nearby commercial establishments with late hours generate noise and impact value.

Winds have overturned numerous trees proximate to the subject which has eliminated natural noise abatement. Pedestrian traffic on the sidewalk along Wadsworth is heavy – the subject property has been the subject of an attempted burglary.

Petitioner is the original owner. She admitted that a request to inspect the interior by Respondent was not granted because the only times offered conflicted with her work schedule. The subject property, absent updating or remodeling, has original flooring, cabinets, fixtures, lighting, wall texture, furnace, water heater, and plumbing. Ms. Rains states the estimated cost of upgrades to be \$60,000 to \$80,000.

Ms. Rains presented one comparable sale at Unit 507 (fully remodeled) with a sale price of \$270,000 but provided no sale date. Ms. Rains commented on Respondent's comparable sales, all of which she stated had finished basements and air conditioning yet carried no adjustments. Respondent's Sale One (Unit 503) had new tile flooring, new appliances, a basement wet bar, and new furnace and water heater. Neither Sale Two (Unit 618) nor Sale Four (Unit 412) had traffic noise.

Petitioner based her requested value of \$148,000 on the subject's original construction compared to units within the project that have experienced updating and/or remodeling.

Respondent's appraiser Bradley Everhart, Ad Valorem Appraiser, presented an appraisal that was characterized as a Residential Appraisal Summary report concluding to value of \$187,100 for the subject property solely based on the sales comparison approach.

Respondent presented 4 comparable sales ranging in sale price from \$220,000 to \$298,000. Sale one sold in July 2014; sales 2 and 4 sold in mid-2015; sale 3 sold in May 2016. All of the sales are the same model as the subject. The appraiser identified finished basements, air conditioning, and noise/traffic influence of South Wadsworth as units of comparison deserving adjustment. Sale prices for sales 1, 3, and 4 were not adjusted for change in market conditions (time). All 4 sales have finished basements receiving negative adjustments. All 4 sales have central air conditioning receiving negative adjustments. Only comparable 1 is proximate enough to South Wadsworth Boulevard to be subject to noise/traffic influences – sales 2, 3 and 4 received negative Wadsworth traffic adjustments.

Respondent requested access to the interior of the subject. Due to the workday schedules of both parties, inspection could not be arranged. Documentation of the request by the Respondent and

reply by the Petitioner is included in the Respondent's report. The Board always encourages allowing access so that the Assessor's Office can ensure the inventory of the subject property is accurate. This allows for condition of the property to be reflected in the appraisal accurately. In reply to questioning by the Board, the Respondent did not disagree that the state of the improvements of the subject property is original and not updated.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017. The Board concludes that condition is an important attribute of value in this market. The Board is convinced that the subject improvements (e.g. carpet, cabinets, paint, HVAC, plumbing, plumbing fixtures) are in original condition, well beyond their useful lives. The Petitioner testified that she had seen the interior of many of the comparables and that they all had been updated to some degree, several substantially. Respondent stated that it was his belief from his review of MLS data and the photographs provided of the interior of the sales from MLS/ broker sources that the comparables he had used had been updated since original construction. Respondent testified that only items of remodel requiring permits carry adjustments. Respondent testified that updating such as carpet, painting, appliances and cabinets are items of "deferred maintenance" and do not require permits so no adjustments for condition are made. The Board is not convinced that the Respondent appropriately accounted for the superior condition of the comparable sales and has therefore made necessary adjustments to the comparable sales.

Without evidence to support additional adjustments yet convinced that the subject property is inadequately adjusted, the Board finds that the lower range of the adjusted values of the comparables of \$172,400 more accurately reflects the difference in the condition of the subject compared to the comparable sales.

ORDER:

The Board concludes that the 2017 actual value of the subject property should be reduced to \$172,400.

Denver County Assessor is directed to change 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 for assessment of the county wherein the property is located, may petition the Court of

Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 13th day of February, 2019.

BOARD OF ASSESSMENT APPEALS



Mary Kay Kelly



Samuel M. Forsyth

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



Milla Lishchuk

