

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>PETER &amp; JUNE REVOCABLE TRUST ET AL,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 73730</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 15, 2018, Diane M. DeVries and Gregg Near presiding. Mr. Erich Kaiter appeared *pro se* on behalf of Petitioner. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board accepted Petitioner’s Exhibit 1 and Respondents Exhibits A-E.

Subject property is described as follows:

**3144 7<sup>th</sup> Street  
Boulder, CO 80304  
Boulder County Property ID No. R0512673**

The subject property consists of a multi-story single family residence containing 4,863 square feet of above grade living area constructed in 2007. The home contains a 2,140 square foot basement of which 710 square feet is unfinished. The building includes a 777 square foot attached garage with a 590 square foot finished loft above. The improvements are located on a 9,835 square foot lot within the Newlands neighborhood.

Petitioner is requesting an actual value of \$3,100,000 for the subject property for tax year 2017. Respondent assigned a value of \$3,810,100 for the subject property for tax year 2017 but is recommending a reduction to \$3,725,000.

### Evidence Presented Before the Board

Petitioner's witness Kris Hicks, a Certified Residential Appraiser, presented six comparable sales ranging in sale price from \$2,100,000 to \$3,350,000 and in size from 3,627 to 5,072 square feet. After adjustments were made, the sales ranged from \$2,300,880 to \$3,535,955.

Petitioner is requesting a 2017 actual value of \$3,100,000 for the subject property.

Respondent's witness David A. Martinez, an Ad Valorem Appraiser for the Boulder County Assessor's Office, presented a value of \$3,725,000 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$2,900,000 to \$3,400,000 and in size from 4,365 to 5,012 square feet. After adjustments were made, the sales ranged from \$3,519,250 to \$3,800,335.

Respondent assigned an actual value of \$3,725,000 to the subject property for tax year 2017.

### The Board's Findings

The burden of proof is on a protesting taxpayer to show that the assessor's valuation is incorrect by a preponderance of the evidence in a *de novo* BAA proceeding. *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). After careful consideration of all of the evidence, including testimony presented at the hearing, the Board finds that Petitioner did not meet its burden.

The Board did not find the appraisal report prepared by Mr. Hicks to be compelling. There are a number of areas that cause the Board to question the reliability of the report. The following summarizes significant factors leading to this conclusion:

1. The appraiser's report appeared to be produced for mortgage purposes and the Board points to specific locations with the report, pages 5, 14 and 20 where the report stated the appraisal may not be used for property tax matters. This fact was acknowledged by the witness to have been in error.
2. The Board questions the disinterest of the appraiser due to testimony regarding a significant business relationship with Petitioner.
3. The Board found Mr. Hicks support for a time adjustment of 3% per annum to be less credible than Respondent's more sophisticated conclusion supported by a State audit.
4. Respondent successfully discredited the appraiser's reliance upon comparable sales outside of the subject market.
5. Adjustments to Petitioner's comparables were less credible than adjustments applied by Respondent's witness and the Board did not place weight upon the appraiser's reliance upon a software program less robust than the regression analysis relied upon by Respondent.

Petitioner presented insufficient probative evidence and testimony to prove that the value of the subject should be set below the Respondent's recommended value of \$3,725,000 for tax year 2017.

**ORDER:**

Boulder County Assessor is directed to adjust the subject's 2017 value to Respondent's recommended reduced value of \$3,725,000.

**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).

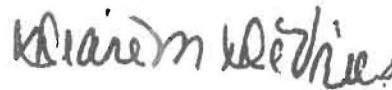
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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**

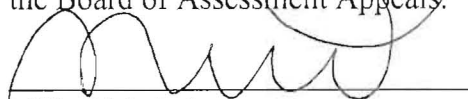


Diane M. DeVries



Gregg Near

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



Milla Lishchuk