

<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>DAVID H. SIMON,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 73767</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 2, 2018, Diane DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. 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 Exhibit A.

Subject property is described as follows:

**2415 Spruce Street, Boulder, Colorado  
Boulder County Schedule No. R0000381**

The subject is a 26-unit apartment complex built in 1981 in a residential neighborhood of central Boulder. The 10,059 square-foot wood-frame building is situated on a 13,634 square-foot site. The efficiency units (one room plus a bathroom) are approximately 325-345 square feet in size. Street parking is available. The building has been maintained but not renovated.

Respondent assigned an actual value of \$4,291,000, which is supported by an appraised value of \$4,900,000. Petitioner is requesting a value of \$2,990,000.

Mr. Simon did not present any comparable sales. Rather, he discussed Respondent’s sales, primarily Sales One and Three. He argued that their construction quality (brick and stucco) was superior to the subject’s frame exterior. He argued that both were closer to Pearl Street Mall. He argued that they were constructed as two buildings with atrium/courtyards, both visually superior. He argued that both complexes offered covered parking spaces.

Mr. Simon testified that his requested value of \$2,990,000 was derived from arbitrary discounting of Respondent's sales, which he considered superior in size, exterior appeal, covered parking, and proximity to Pearl Street Mall.

Respondent's witness, David Martinez, Ad Valorem Appraiser for the Boulder County Assessor's Office, presented a Sales Comparison Analysis with three sales within the same general area as the subject and with unit counts of 26, 22 and 20. Sale prices ranged from \$3,000,000 to \$4,760,000. Adjustments were made for market conditions (positive adjustments), age, unit and bedroom counts, and parking. Adjusted sale prices ranged from \$4,042,685 to \$5,290,895. Mr. Martinez concluded to a market value of \$4,900,000.

Mr. Martinez selected comparable sales based on location, number of units, and number of bedrooms. He found the subject and all comparable sales to be similarly located near the Pearl Street Mall. He found no greater market reaction to his comparable sales' brick/stucco exterior or to greater visual appeal due to there being two buildings in comparison to the subject's one. He made adjustments for covered parking. He disagreed that the subject's small efficiency units without separate bedrooms resulted in a lower value than larger units with defined bedrooms.

Respondent's market condition adjustments were based on a five-year study concluding to value increases graphed by months. He noted that Petitioner's methodology was based on gross sale price without consideration for market conditions that require trending of sale prices of comparable sales to date of appraisal (June 30, 2016).

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

Both state constitution and statute require use of the market approach to value residential property. Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time and a variety of characteristics. Petitioner failed to do so. Respondent's evidence is more credible.

The Board is persuaded that the subject's small efficiency floor plans and lack of parking likely impact sale price and rents. However, Petitioner failed to present any market data with which the Board could further adjust Respondent's adjusted sale prices. The Board finds it unlikely that adjustments for these features would conclude to a value lower than that assigned.

**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).

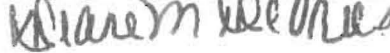
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

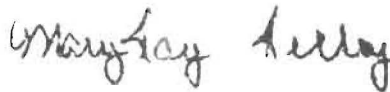
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 6th day of November, 2018.

**BOARD OF ASSESSMENT APPEALS**




\_\_\_\_\_  
Diane M. DeVries



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MaryKay Kelley

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

  
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Milla Lishchuk