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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID H. SIMON,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 73776</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on October 15, 2018, Diane DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Jasmine Rodenburg, 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:

**1833 Folsom Street, Boulder, Colorado
Boulder County Schedule No. R0006993**

The subject is a 29-unit apartment complex built in 1969. The 20,730 square-foot wood-frame building is situated on a 44,008 square-foot site. Unit mix consists of 20 one-bedroom units and 9 two-bedroom units. Parking is off-site.

Respondent assigned an actual value of \$4,800,000, which is supported by an appraised value of \$5,000,000. Petitioner is requesting a value of \$4,060,000.

Mr. Simon described the subject building, located near the University of Colorado campus, as maintained but without renovation since his purchase in 1982. The roof and windows were original, the exterior was frame wood exterior (no brick), no lobby, no pool, no parking, and no air conditioning.

Mr. Simon offered 2121 Canyon as a comparable sale. It sold for \$9,710,100 or \$161,000 per unit (rounded) for its 60 units and was superior to the subject in the following ways; new roof and windows, central lobby, park location, garbage chutes, and cinderblock structure. Mr. Simon considered it the best comparison due to its proximity to the University of Colorado campus and near the subject. After adjusting for the differences, he concluded to a value for the subject, based on this sale, at \$140,000 per unit or \$4,060,000.

Mr. Simon offered 1245 Elder Avenue as a comparison (not a sale). Owned by Petitioner, it was a frame building with 22 one -and-two-bedroom units, twelve garage spaces, similar maintenance, original roof and windows, and a superior location not near the University. Having valued this property at \$160,000 per unit (rounded), he considered it superior to the subject property, which he valued at \$140,000 per unit or \$4,060,000.

Mr. Simon's requested value of \$140,000 per unit or \$4,060,000 was based on the aforementioned two properties.

Respondent's witness, Mr. David Martinez, Ad Valorem Appraiser for the Boulder County Assessor's Office, made no interior inspection of the subject property. He presented a Sales Comparison Analysis with three sales with unit counts of 22, 20 and 26. Sale prices ranged from \$3,000,000 to \$4,760,000. Adjustments were made for market conditions, effective age, unit and bedroom counts, and garages. Adjusted sale prices ranged from \$4,540,880 to \$5,735,090. Mr. Martinez, weighing all three, concluded to a market value of \$5,000,000.

Mr. Martinez based his comparable sale selection on their locations within the same marketing area with similar influences (proximity to the University, Pearl Street Mall, and 28th Street) and similarity in average unit count and size and bedroom count. He found no basis in the marketplace for differences in exterior construction, amenities (exterior brick, lobbies, or air conditioning), or proximity to campus or the Pearl Street Mall.

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 required trending of the sale prices of comparable sales to date of appraisal (June 30, 2016).

Mr. Martinez addressed Petitioner's comparable sale at 2121 Canyon, noting that Mr. Simon failed to time trend the sale price to June 30, 2016. He also addressed the different modeling applied to larger buildings like this property (60 units) in comparison with the subject's 29 units. He was unaware whether 2121 Canyon had a new roof and windows as reported by Petitioner.

Mr. Martinez objected to Petitioner's use of 1245 Elder Avenue as a comparison, because it was not a sale but rather the subject of a prior hearing.

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 acknowledges Petitioner's concerns about the marketability and value of some features, such as the subject's original roof and windows, frame exterior, lack of air conditioning, and central lobby, but Petitioner failed to present any market data with which the Board could further adjust Respondent's sales. Also, the Board finds that adjustments for these features would not lower Respondent's appraised value below the assigned value. Further, the Board agrees with Respondent that Petitioner's use of 1245 Elder Avenue as a comparison is inappropriate because this property was not sold within the statutory base period.

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

Diane M. DeVries

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

