

<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.: 73778</b></p>
<p><b>ORDER</b></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 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:

**1838 23<sup>rd</sup> Street, Boulder, Colorado**  
**Boulder County Schedule No. R0067785**

The subject is a 12-unit apartment complex. All are two-bedroom units. The complex was built in 1974 as a 9,618 square-foot wood-frame building that includes basement units. It is situated near a creek on an 18,880 square-foot site. Parking is off-site.

Respondent assigned an actual value of \$2,516,000, which is supported by an appraised value of \$3,010,000. Petitioner is requesting a value of \$1,680,000.

Mr. Simon purchased the subject building in the early 1980s. Located in Central Boulder near the University of Colorado and Pearl Street Mall, it has been maintained but not renovated. Windows are original. The roof is original and flat, requiring frequent repairs. One laundry room is available for all units. There are no other amenities, and none of the units have views.

Mr. Simon offered 1453 Broadway, owned by him, as a comparable sale. Its location on The Hill across from campus is superior to the subject. With 16 units, it sold in April of 2016 for \$2,800,000 or \$175,000 per unit.

Mr. Simon considered Respondent's Sale Three to be an excellent comparable due to its similarity in location and number of units (12). It, too, sat near the creek and enjoyed access to a park via a bridge. It was also superior in its brick exterior with a new roof. Mr. Simon adjusted this sale's \$160,000 per unit price to \$140,000 per unit for the subject. His requested value of \$1,680,000 is based on this sale.

Mr. Simon reviewed Respondent's comparable sales, testifying that Sales One and Two were conversions of private residences and that one was a former fraternity house. He argued that their prices per unit were far out of range and not comparable.

Respondent's witness, 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 having unit counts of 7, 6 and 12. Sale prices ranged from \$1,850,000 to \$2,300,000. Adjustments were made for market conditions, construction quality, effective age, unit and bedroom counts, and efficiency units. Adjusted sale prices ranged from \$2,932,700 to \$3,255,485. Mr. Martinez, weighing all three, concluding to a market value of \$3,010,000.

Mr. Martinez based his comparable sale selection on locations in the same marketing area, similarity in number of units, unit size, bedroom count, basement finish, and quality of construction. 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 require trending of the sale prices of comparable sales to date of appraisal (June 30, 2016).

Mr. Martinez, in response to Petitioner, testified that Sales One and Two were, in fact, former single-family residences but that they had been converted to apartments and were, therefore, valid comparisons.

Mr. Martinez addressed Petitioner's comparable sale at 1453 Broadway, noting that Mr. Simon failed to time-trend the sale price to June 30, 2016. He also testified that this property was a fraternity house with units unavailable to the general population. For this reason, he considered these markets to be different and not qualified comparisons.

With regard to Mr. Simon's review of Sale Three, Mr. Martinez disagreed with Mr. Simon's calculation of price per unit at \$160,000, stating that it had been calculated without time trending to 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 acknowledges Petitioner's concerns about the marketability and value of some features, such as the subject's original roof and windows and frame exterior, 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 Respondent's Sales One and Two, which were conversions from single-family residential properties to apartment buildings were valid comparisons. Finally, the Board does not consider the fraternity house at 1453 Broadway to be a valid comparable.

### **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.

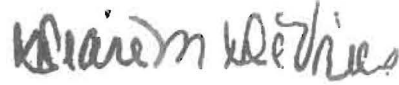
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may

petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

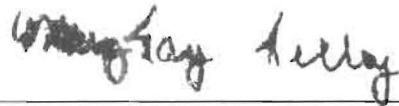
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 6<sup>th</sup> day of November, 2018.

**BOARD OF ASSESSMENT APPEALS**



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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

