

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MOBY, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 73858</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 16, 2018, Diane DeVries and Cherice Kjosness presiding. Mr. David Simon, owner, appeared on behalf of Petitioner. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Petitioner's Exhibit 1 and Respondent's Exhibit A were admitted. Respondent's witness, Mr. David A. Martinez, an Ad Valorem Appraiser, was admitted as an expert witness.

Subject property is described as follows:

**2011 Goss St, Boulder, CO
Boulder County Schedule No. R0000461**

The subject property consists of a two-story apartment building with garden level built in 1978 and containing 12 efficiency units. It is located near the Boulder Mall and the University of Colorado campus. The Boulder County Assessor estimates the effective year built to be 1978 due to the good maintenance of the structure, but the condition is average with very little updating. The building has 2,544 square feet of above grade area, and 1,326 square feet of finished garden level. The site is 6,594 square feet with no garage spaces for tenants.

Petitioner is requesting an actual value of \$1,100,000 for the subject property for tax year 2017. Respondent assigned a value of \$2,040,000 for the subject property.

Mr. Simon presented a narrative regarding the appraisal submitted by Respondent, but did not submit any additional sales data. He testified that the units in the subject building are smaller than the typical rental unit in Boulder. They have “galley” kitchens with small appliances and no separate bedrooms.

Mr. Simon testified that he owns several apartment properties in Boulder and he maintains them to be clean and safe, but does not update the units. Units within the subject do not have air conditioning, laundry facilities, or common areas or other amenities and have exterior staircases. In addition, he disagrees with Respondent’s comparable sales as they are all superior to the subject’s average size of units.

Mr. Simon testified that Comparables 2 and 3 are homes converted to apartments and are not true comparables for the subject. He owns Comparable 1 and believes it to be superior to the subject property in that it has larger units, fireplaces, an on site laundry, central air conditioning, full size appliances, parking for tenants and is adjacent to the creek and a private park.

Petitioner is requesting a 2017 actual value of \$1,100,000 for the subject property.

Respondent presented a value of \$2,300,000 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$1,500,000 to \$2,300,000 and in size from 4,333 to 6,960 square feet above grade. Only Comparable 2 had below grade area like the subject. Mr. Martinez made corrections to the grid regarding the adjustment for efficiency units. After adjustments were made, the sales ranged from \$2,090,535 to \$2,486,405.

Respondent’s witness, Mr. David A. Martinez, relied on the Sales Comparison Approach as required by the Colorado Constitution for residential property. Adjustments were made for date of sale, effective year built, above and below grade area, number of units, number of efficiency units, number of bedrooms, and parking facilities. He agreed with Mr. Simon that this property is modest with smaller efficiency units. However, he believes the adjustments account for the market value differences. No adjustment was made for air conditioning or site amenities. He believes the close proximity to the mall and campus positively affects value. He testified that there was a strong rental market in Boulder and students prefer to live close to the campus. They are willing to overlook lack of amenities. He noted that although these units were 38% smaller, the differential in rent was only 16%. As for the laundry facilities on site, Mr. Martinez does not believe this is a value contributor as there are usually a small number of machines and tenants generally prefer to go to a laundromat.

Respondent is asking the Board to sustain the Board of Equalization’s value of \$2,040,000 for the subject property for tax year 2017.

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

The Board finds that generally the presence of air conditioning and dishwashers commands a higher rental rate, which would typically drive a higher sales price. However, since the County does not collect this data, and the Petitioner did not submit data to support an adjustment, no consideration could be given.

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.

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 16th day of November, 2018.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Cherice Kjosness

Cherice Kjosness

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

Milla Lishchuk

Milla Lishchuk