

<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 T. BYERS</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION</b></p>	<p><b>Docket No.: 48232</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 2, 2008. Diane M. DeVries and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Jennifer Wascak, Esq. Petitioner is protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**4830 W 101<sup>st</sup> Circle, Westminster, Colorado  
Adams County Schedule No. R0046528**

The subject property is a frame and masonry veneer, two-story residence. The home is located within Hyland Greens subdivision and was built in 1974. The subject property consists of four bedrooms and three bathrooms. There is a reported 1,925 square feet of above grade living area with 836 square feet of unfinished basement area. There is an attached two-car garage.

Petitioner presented an indicated value of \$244,860.00 for the subject property.

Petitioner testified the subject property is in below average condition and in need of many repairs. There have been no major repairs or updating to the home since it was purchased in 1974. The areas that need repairs are as follows: roof, windows, exterior wood siding, interior and exterior paint, garage door, air conditioning, furnace, and carpet. There has been no updating in the kitchen or bathroom. Petitioner presented the Board with photos of some of the deferred maintenance and some of the other properties in the neighborhood.

Petitioner presented four comparable sales ranging in sales price from \$235,000.00 to \$270,000.00 and in size from 1,883 to 2,058 square feet. No adjustments were made to the comparable sales. Petitioner included MLS printouts of the sales. Petitioner also presented seven Adams county assessed actual values for 2005, 2006, and 2007. These are all within close proximity to the subject and were adjusted for differences in physical characteristics. Petitioner testified these were included to show an equalized value range and to support his value range.

Petitioner contends Respondent has overvalued the subject property and did not adequately adjust the comparable sales. Respondent selected sales that are superior to the subject and did not use sales more similar in physical condition to the subject.

Petitioner is requesting a 2007 actual value of \$244,860.00 for the subject property for tax year 2007.

Respondent presented an indicated value of \$262,600.00 for the subject property based on the market approach.

Respondent's witness, Ms. Susan Schilling a Certified Residential Appraiser with Adams County Assessor's Office, presented four comparable sales ranging in sales price from \$299,000.00 to \$320,000.00 and in size from 1,967 to 2,154 square feet. After adjustments were made, the sales ranged from \$287,680.00 to \$293,573.75.

Ms. Schilling testified all of the comparable sales she used are located within the same market area as the subject and share similar physical characteristics. Adjustments were made for all differences and the indicated value well supports the assigned value.

The subject property is located in an upscale neighborhood, with good quality and condition of many of the homes. The condition and quality rating of the subject property was average based on an exterior inspection. The four sales used were all rated as average condition with the exception of one. In the appraisal the deferred maintenance was addressed by taking the indicated value of \$290,000.00 and then subtracting a lump sum adjustment of \$27,400.00 for a value of \$262,600.00.

Respondent assigned an actual value of \$262,500.00 for the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007.

The Board is not convinced it is proper appraisal methodology to deduct a lump sum adjustment to arrive at a value for a site specific appraisal. Adjustments in the market approach should be based upon market extraction not actual cost figures. The market recognition of these differences is what determines the adjustments.

Respondent's appraiser utilized comparable sales from the higher end of the market. Adjustments were made to the sales for all differences in physical characteristics. However, the adjustment for deferred maintenance was not supported by market sales. Respondent's appraiser made an assumption that Respondent's assigned value was correct. Additionally, Respondent did not

take into consideration the sales presented by Petitioner. Petitioner's sales do reflect the lower end of the range and all are reported to have deferred maintenance and seller concessions. These sales should have been considered as well to aid in determining what adjustments might be warranted for deferred maintenance and also as a test of reasonableness for those adjustments.

The Board recognizes Respondent only had exterior access to the subject and relied on what information was available for the subject and sales. Respondent attempted to take into consideration all the differences affecting the subject property. However, the Board believes that further reduction is warranted.

The Board considered the sales presented by both parties. The Board concludes Petitioner's sales represent the lower end of the market. Some of the sales were bank owned properties and were reported to be in inferior condition to the subject. However, these sales should be considered in the valuation process as they are reflective of market conditions during the time period. The Board made adjustments to Petitioner's sales for differences in physical characteristics and was able to extract a condition adjustment through the sales presented by both parties. The Board applied a 12% condition adjustment to Respondent's comparable sales. The Board concludes to a value of \$255,600.00 for the subject property.

The Board did not take into consideration the Adams county assessed values presented by Petitioner. "Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

The Board believes that it would be very beneficial and strongly encourages the Adams County Assessor's Office to have the ability to access and utilize the online MLS service. The Board is convinced that this service is highly valuable and crucial in the analysis of comparable sales and adjustments to arrive at a supportable value conclusion.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$255,600.00

### **ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$255,600.00

The Adams County Assessor is directed to change his records accordingly.

**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 Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of CRS section 24-1-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of 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 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 for assessment of the count in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Colo. Rev. Stat. § 39-8-108(2) (2008).

**DATED and MAILED** this 5<sup>th</sup> day of September 2008.

**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*  
Diane M. DeVries

This decision was put on the record

SEP 05 2008

*Debra A. Baumbach*  
Debra A. Baumbach

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

*Heather Flannery*  
Heather Flannery

