

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SUSAN & DONN LIVINGSTON,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49263</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 5, 2008, Karen E. Hart and Debra A. Baumbach presiding. Mr. Donn Livingston appeared pro se on behalf of Petitioners. Respondent was represented by Charles T. Solomon, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3863 East Tennessee Avenue, Denver, Colorado
(Denver County Schedule No. 05135-12-003-000)**

The subject property is a brick, ranch style single-family residence built in 1956. There are 2,154 square feet of living area, a crawl space, and an attached two-car garage. The site area consists of 13,200 square feet.

Based on the market approach, Petitioners presented an indicated value of \$338,341.00 for the subject property.

Petitioners presented six comparable sales ranging in sales price from \$233,000.00 to \$393,000.00 and in square footage including basement area from 2,104 to 2,681. After adjustments the sales ranged from \$302,500.00 to \$357,500.00.

Mr. Livingston testified the sales he presented best reflect market conditions during the base period and share similar physical characteristics. The final value conclusion was arrived at by calculating the median sales price and then applying a 10% adjustment factor for lot size.

Mr. Livingston testified the subject is heavily influenced by the close proximity to Colorado Boulevard. There is added traffic noise and unobstructed visual exposure on two sides. There is also a church and motel within close range. Petitioners contend that Respondent has not given adequate consideration to the adverse influences.

The original garage was converted into a family room and a new garage was then constructed. The family room is on a concrete slab with a separate heating system from the rest of the residence. Petitioners believe that this area should not be valued at the same rate as it is considered a built-in garage.

Mr. Livingston testified that Respondent has relied on all superior sales and did not make appropriate adjustments for the differences which represented a higher value conclusion. Mr. Livingston testified that the subject property is located in Lakota Heights; Respondent considered the subject to be located within the Belcaro market area which is considered to be a superior area to the Lakota Heights area.

Petitioners are requesting a 2007 actual value of \$338,341.00 for the subject property.

Respondent presented an indicated value of \$500,000.00 for the subject property based on the market approach.

Respondent presented six comparable sales ranging in sales price from \$393,000.00 to \$722,650.00 and in size from 1,627 to 3,672. After adjustments the sales ranged from \$443,795.00 to \$543,406.00.

Mr. Edward R. Moore, Certified Residential Appraiser, with the Denver County Assessor's Office, testified he performed a physical inspection of the subject property. All of the comparable sales selected were considered to be the most similar in size, style, quality, and market appeal. He tried to select sales with no basement area and similar lot sizes.

Adjustments were made to all of the sales for all differences in physical characteristics and for any location issues. The subject is considered to be located in the Belcaro/Lakota Heights subdivision. Both are considered to be the same market and share the same market conditions. On the warranty deed for the subject property at the time of sale the legal description indicates the subject property is located in Belcaro Park.

Respondent did not consider the comparable sales used by Petitioners to be suitable comparables. All of the sales are much smaller, have basement areas, and the required adjustments render them unsuitable.

Respondent assigned an actual value of \$441,600.00 to the subject property for tax year 2007.

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

The Board found Respondent's sales to be the most comparable to the subject. Respondent made adjustments for all differences in physical characteristics and for the effects of location. The Board was not convinced by the evidence and testimony that the sales located in Lakota Heights reflect any market difference to those located in Belcaro. Also, the Board was not convinced the converted family room should be valued any different from the rest of the structure. There was no evidence presented to support that the quality or condition is inferior.

The Board gave little weight to Petitioners' sales as there was minimal detail provided about the sales. Petitioners' value conclusion was based on the derived median sales price and did not take into consideration other factors that would affect the value.

Respondent's assigned value is lower than the indicated value and would take into consideration any additional factors affecting the subject property.

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 CRS § 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 of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 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).

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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 16th day of December 2008.

BOARD OF ASSESSMENT APPEALS

Karen E. Hart
Karen E. Hart

Debra A. Baumbach
Debra A. Baumbach

This decision was put on the record

DEC 15 2008

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

Heather Flannery
Heather Flannery

