

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 50527
and 50528**

Petitioner:

ERIC FRANK JONES,

v.

Respondent:

**DENVER COUNTY BOARD OF COMMISSIONERS
AND DENVER COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 1, 2010, Louesa Maricle and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Max Taylor, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007 and is protesting tax year 2008. Petitioner is challenging the classification assigned to the subject property for both tax years.

The Board consolidated Dockets 50527 and 50528.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4576 Irving Street (rear), Denver, Colorado
(Denver County Schedule No. 02202-08-015-000V)**

The subject property consists of a 1,200 square foot lot accessed by an alley with a 1,105 square foot structure, originally a garage and now used for personal storage.

Respondent assigned an actual value of \$9,300.00 and vacant/commercial classification for tax years 2007 and 2008. Petitioner is requesting residential classification.

The residence at 4576 Irving Street and the non-contiguous alley garage had been a single entity and under common ownership since 1966, used and classified residentially. The residence was separately sold in 1995. Subsequently, the classification of the subject property was converted to vacant/commercial because contiguous ownership no longer existed and the alley structure no longer serviced the residence.

Mr. Jones argued that the change in classification was unjust and unfair.

Respondent's witness testified that the residential classification is reserved for residential properties only. The garage is neither a residential unit nor used in conjunction with a residential unit, and vacant/commercial classification applies.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified for tax years 2007 and 2008.

“Residential land’ means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the residential improvements located thereon.” Section 39-1-102(14.4), C.R.S.

The subject property does not meet the definition of residential land and the residential tax rate cannot be applied. The determining factor is that the property must have residential improvements or support the owner's residence in order to be classified as residential. Because the owner of the subject property no longer owns an adjacent residence, the subject property no longer qualifies for residential classification. The subject property is properly classified as vacant commercial.

ORDER:

The petitions are 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-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 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-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 county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

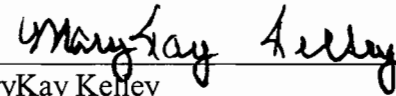
Sections 39-8-108(2) and 39-10-114.5(2), C.R.S.

DATED and MAILED this 18th day of June 2010.

BOARD OF ASSESSMENT APPEALS

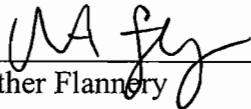


Louesa Maricle



MaryKay Kelley

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



Heather Flannery

