

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 51289

Petitioner:

ELLEN C. TEMBY,

v.

Respondent:

DENVER COUNTY BOARD OF COMMISSIONERS.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 5, 2010 Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by David V. Cooke, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

Subject property is described as follows:

**13204 Lackland Drive, Denver, Colorado
Denver County Schedule No. 01131-16-006-000**

The subject property consists of a ranch style residence built in 1970 on a 7,150 square foot site located in the Montbello neighborhood. There are 987 square feet of above grade living area and a full unfinished basement.

Petitioner purchased the subject property as a lender owned property after the base period ending June 30, 2006. There was a prior sale of the subject property that occurred in November 2005 for \$145,000.00.

Based on the market approach, Petitioner presented an indicated value of \$92,461.00 for the subject property.

Petitioner presented four comparable sales ranging in sale price from \$116,000.00 to \$130,001.00 and in size from 972 to 1,060 square feet. After adjustments were made, the sales ranged from \$66,018.00 to \$114,719.00. Petitioner testified that Sales 1, 2, and 3 are the same model as the subject property.

Comparable Sales 1 and 2 were HUD foreclosure sales sold “As is.” Comparable Sale 3 was a lender owned property and described in the real estate listing as a “Handy Person special. Needs some TLC.” Comparable Sale 4 was a lender owned property and sold as a “Fix-up...Quick possession,” according to the real estate listing.

Ms. Temby testified that the market was declining during the base period and that foreclosures were dominating the market.

Petitioner is requesting a 2007 actual value of \$92,461.00 for the subject property.

Respondent presented a value of \$139,000.00 for the subject property based on the market approach.

Respondent’s witness, Ms. Creighton M. Angst, a Certified Residential Appraiser with the Denver County Assessor’s Office presented four comparable sales ranging in sale price from \$145,000.00 to \$164,900.00 and in size from 968 to 987 square feet. After adjustments were made, the sales ranged from \$136,310.00 to \$139,850.00. All of the sales are located in the Montbello neighborhood.

Comparable Sale 1 was the subject property’s base period sale. Comparable Sales 2 and 4 were the same model as the subject property. None of the comparable sales were bank owned.

Ms. Angst testified that there were over 700 Montbello area sales during the base period and that foreclosure sales did not dominate the market. Foreclosure sales dominated the market after the base period. There was no time trend; the market values were consistent over the 18-month base period. Her adjustments were market extracted.

Ms. Angst testified that she inspected the subject property in July 2010 and reviewed the 2005 listing information and the subject property’s foreclosure information. The subject property was in average condition on the assessment date; any condition changes occurred after the subject property began the foreclosure process.

Respondent assigned an actual value of \$139,200.00 to the subject property for tax year 2007 but is recommending a reduction to \$139,000.00.

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

Respondent’s witness presented a well-prepared, well-supported appraisal report. The sales were comparable to the subject property and the adjustments were minimal and well within acceptable limits. The recommended reduced value was well-supported, and the Board agreed with the concluded value.

Petitioner presented insufficient evidence to show that foreclosure sales dominated the market during the 18-month study period. Petitioner did not present statistics for non-foreclosure

versus foreclosure sales either in number or sale price differences. The Board was persuaded by Respondent that foreclosure sales were not dominating the market and therefore should not be used to value the subject property.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$139,000.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2007 actual value for the subject property of \$139,000.00.

The Denver County Assessor is directed to change his/her 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 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 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 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 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 county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 13th day of October 2010.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Karen E Hart

Karen E. Hart

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

Amy Bruins

Amy Bruins

