

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FERN J. BECHTEL,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53154</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 10, 2011, MaryKay Kelley and Karen E. Hart presiding. Petitioner was represented by Wayne J. Fowler, Esq. Respondent was represented by David V. Cooke, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**6700 W. Dorado Drive #56, Denver, Colorado
Denver County Schedule No. 09145-05-034-000**

The subject property consists of a residential dwelling built in 1998 with 2,013 square feet of gross living area, a 1,822 square foot basement with 1,280 finished square feet, and a three-car garage. The lot size is 5,775 square feet.

The subject property has some cracking in the exterior stucco walls and has had cracking in the interior walls that has been repaired three times. The rear door has been repaired due to settling, and the concrete driveway and front entrance need to be replaced.

Petitioner is requesting an actual value of \$450,000.00 for the subject property for tax year 2009. Respondent assigned an actual value of \$553,100.00 to the subject property for tax year 2009 but is recommending a reduction to \$535,000.00.

Petitioner's witness, Walter A. Ohmart, Jr., a retired real estate broker, testified that the subject property is located in a gated community with a variety of price ranges based on degrees of

water drainage issues. Mr. Ohmart testified that underground water drainage is adjacent to or flows through Petitioner's property. This water drainage has affected 14 homes in the subdivision. Costs to correct foundations and other water damage issues to some of the homes have been as high as \$160,000.00. Mr. Ohmart believes much of the water damage is due to the builder installing French drains under the basement floor instead of around the exterior of the foundation walls.

Petitioner presented three comparable sales located in same complex as the subject property, Units 1, 6, and 50, ranging in sale price from \$325,000.00 to \$390,000.00 and in size from 1,923 to 2,020 square feet. No adjustments were made to the sales. Mr. Ohmart testified that Units 1 and 50 were affected by water issues.

Petitioner is requesting a 2009 actual value of \$450,000.00 for the subject property based on the average of the median price of her comparable sales and Respondent's value.

Respondent presented a value of \$535,000.00 for the subject property based on the market approach.

Respondent's witness, Richard C. Armstrong, a Certified Residential Appraiser with the Denver County's Assessor's office presented three comparable sales ranging in sale price from \$580,000.00 to \$592,625.00, all having 1,966 square feet of gross living area. After adjustments were made, including a clerical error on the adjustment grid, the sales ranged from \$528,940.00 to \$544,910.00. All were constructed by the subject builder and are the same model as the subject property without the subject's bay window. Comparable Sales 2 and 3 were remodeled before the sales.

Mr. Armstrong inspected both the interior and exterior of the subject property and observed the cracking described by Petitioner. He believes the cracks are due to settling and are not structural issues; there is no structural engineer's report. Mr. Armstrong adjusted all of the comparables for condition, as all were in better condition than the subject property. His adjustments were based on market recognition and not actual costs to cure.

Mr. Armstrong testified that all of Petitioner's comparable sales were sold to the same person or related entity. Units 1 and 50 were not listed in the Multiple Listing Service. Building permits were pulled after the sales for foundation repairs. Mr. Armstrong did not use Petitioner's sales as all were well below the subject property in condition, sold to a "flipper," and were remodeled immediately after the sale for resale.

Regarding the water issue, Petitioner indicated that during heavy rain storms, water came into one basement bedroom through a window well; Mr. Armstrong does not think the problem is constant.

Respondent assigned an actual value of \$553,100.00 to the subject property for tax year 2009, but is recommending a reduction to \$535,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value.

The Board was convinced that Petitioner's sales were inferior in condition to the subject at time of sale, were sold for repair and resale, and that two were not exposed to the open market. Therefore, the Board could give little weight to these sales.

Respondent presented three arms-length transactions that were properly adjusted for condition differences. Without an engineer's report, the Board considered the condition of the subject property to be typical issues due to settling and believed no further adjustment was warranted.

After careful consideration of all the testimony and evidence presented, the Board concluded that the 2009 actual value of the subject property should be reduced to \$535,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$535,000.00

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 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-five days after the date of the service of the final order entered).

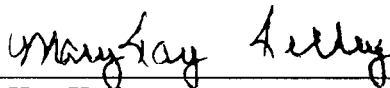
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.


Section 39-8-108(2), C.R.S.

DATED and MAILED this 22 day of February 2011.

BOARD OF ASSESSMENT APPEALS

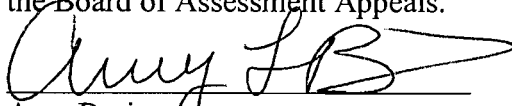


MaryKay Kelley



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

