

<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>JAYNEE BROWN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 59146</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 21, 2012, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Charles T. Solomon, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**2557 South Stuart Street, Denver, Colorado  
Denver County Schedule No. 05305-120-14-000**

The subject is a 1,014 square foot brick ranch with basement and carport built in 1957 on a 6,900 square foot site. The dining room has been converted to a third bedroom with closet. Both parties describe the interior condition as average; Respondent's witness was not allowed access for verification.

Petitioner is requesting an actual value of \$135,000.00 for tax year 2011. Respondent assigned a value of \$163,100.00.

Ms. Brown purchased the subject property on January 30, 2009 for \$130,100.00. The seller was an estate nearing foreclosure, and approval for the short sale was secured from the estate's bank. Ms. Brown considered this sale to be the best comparable available.

Ms. Brown presented two comparable sales with sale prices of \$146,375.00 and \$130,300.00. Both were distress sales, as was the subject. No adjustments were made.

Ms. Brown presented two appraisals, one performed for the bank holding the original mortgage with a value conclusion of \$137,000.00 and the other performed for her mortgage lender with a value conclusion of \$135,000.00.

Ms. Brown discussed Respondent's appraisal, identifying inaccurately-described characteristics and disagreeing with Respondent's upward time adjustment and subjective adjustments. She could not locate any MLS information about Respondent's Sale 1. Respondent's Sale 2 was superior (remodeling, dishwasher, gas fireplace, newer carpet, operable sprinkler system, tiled and hardwood flooring, utility shed, mature landscaping, flagstone patio, newer vinyl windows). Respondent's Sale 3 had been remodeled per MLS and had hardwood flooring, a utility shed, and nice landscaping.

Respondent presented a value of \$200,400.00 for the subject property based on the market approach. Respondent's witness, Timothy K. Muniz, Certified General Appraiser, presented three comparable sales most similar in location, age, and size that occurred within the 24-month base period. They ranged in sale price from \$189,950.00 to \$195,000.00. After adjustments were made for seller concessions, time, condition, and basement finish, the sales ranged from \$189,167.00 to \$208,637.00.

Mr. Muniz reviewed over 120 sales. He considered the majority to be arm's length transactions and declined the use of distress sales, which he described as commonly being in inferior condition.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued at \$163,100.00 for tax year 2011.

The Board emphasizes the statutory base period of January 1, 2009 through June 30, 2010 and considers sufficient data available within this 18-month base period to negate a search of comparable sales within 2008. One of Petitioner's sales and two of Respondent's sales occurred in 2009. Neither of Petitioner's two independent appraisals included comparable sales within the statutory base period.

Respondent's spread sheet persuaded the Board that distress sales existed in the subject neighborhood. It displayed 86 sales within the statutory base period with sale prices ranging from \$45,000.00 to \$245,200.00; approximately 13% were distress transactions. Although a two-tiered market is considered present in this neighborhood, the Board finds that physical condition, updating and remodeling are important considerations in estimating value.

The Board reviewed Respondent's two and Petitioner's one base period sales, the range of sale prices being \$146,375.00 to \$194,000.00, suggesting considerable physical differences (condition, updating and remodeling). Petitioner's testimony that Respondent's Sales 2 and 3 were remodeled would suggest lower adjusted values than \$199,369.00 and \$189,167.00. The MLS sheet for Petitioner's 2009 "fix-up" sale (\$146,375.00) states that remodeling was in process at the time of sale and suggesting a higher adjusted value. Sufficient detail is unavailable to make additional

adjustments to any of the three sales. The Board suggests that value lies within the range of Respondent's indicated value of \$200,400.00 and Petitioner's requested value of \$135,000.00. It was given no compelling data to justify a value below what was assigned.

The Board is not persuaded that Petitioner's purchase of the subject price for \$130,100.00 is a compelling factor in determining market value. One sale does not make a market; appraisal methodology dictates evaluation with other available sales within the area.

The Board was presented no statistical data in support of Respondent's positive time adjustments or with which to consider an alternate adjustment. Because a significant number of distress sales existed within the base period, value increase in the neighborhood is questionable. A change or deletion of Respondent's adjustment would not impact the assigned value.

The Board suggests that Petitioner allow an interior inspection in the future. Respondent's witness is unable to describe the property or perform an accurate appraisal without having viewed the home's interior.

The Board is not persuaded by probative testimony or evidence that a value below that of \$163,100.00 is warranted.

### **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 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).

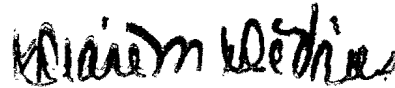
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

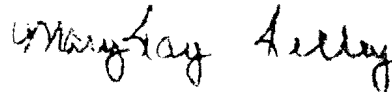
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 29th day of February, 2012.

**BOARD OF ASSESSMENT APPEALS**



\_\_\_\_\_  
Diane M. DeVries



\_\_\_\_\_  
MaryKay Kelley

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

  
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Milla Crichton