

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 59165

Petitioner:

JEFFREY MULLER ET AL,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 24, 2012, Louesa Maricle and MaryKay Kelley presiding. Jeffrey K. Muller appeared pro se on behalf of Petitioners. Respondent was represented by Jeremy Moroff, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**2039 South Logan Street, Denver, Colorado
Denver County Schedule No. 05271-14-020-000**

The subject is a 1,005 square foot brick ranch with a partially-finished basement. It was built in 1921 on a 4,688 square foot lot. A detached two-car garage is shared with the next door neighbor. The driveway is also shared; Petitioners' driveway encroaches 1.5' on the neighbor's lot and the neighbor's driveway encroaches 4.5' on Petitioners' lot. Additionally, the subject property has a one-car detached garage with carport.

Petitioners are requesting an actual value of \$230,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$263,700.00.

Mr. Muller presented six comparable sales, their actual values averaging \$239,000.00 (rounded). Applying Respondent's \$5,000.00 adjustment for the shared driveway and garage, Mr. Muller concluded to a requested value of \$230,000.00.

The City and County of Denver reported an 8.6% reduction in property values. Mr. Muller questioned his 2011 actual value increase from \$250,000.00 in 2010 to \$263,700.00 in 2011 in comparison to actual value reductions from 10.5% to 17.4% for several neighbors.

Respondent presented a value of \$266,400.00 for the subject property based on the market approach. Respondent's witness, Timothy Muniz, Certified General Appraiser, presented three comparable sales within a 24-month period ranging in sale price from \$267,500.00 to \$310,000.00. After adjustments were made, the sales ranged from \$247,436.00 to \$281,081.00.

Mr. Muniz based time adjustments on a statistical study not offered at this hearing, concluding to adjustments of 3.27% for the subject's neighborhood, less than the city-wide decrease.

Mr. Muniz reviewed Petitioners' comparable sales, discussing his reasons for omitting them from consideration. Sale 1 was an estate sale considered a non-market transaction in poor condition. Sale 2's lot was small and included a neighbor's easement for access. Sale 3 was located near commercial properties. Sale 4, a foreclosure, was located adjacent to an alley and was exposed to heavy traffic. Sale 5 reportedly had condition problems. Sale 6 was a short sale.

Petitioners presented sufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax year 2011.

The Board has little confidence in Petitioners' sales; no photographs were offered, no seller's sales concessions were reported, and additional detail was absent (condition, remodeling, and extras). In addition, none are considered superior to those used by Respondent's witness based on his comments about them (condition, commercial and traffic influences, distress).

Mr. Muller used an equalization argument to support his requested value. The Board can consider an equalization argument if evidence or testimony is presented which shows the Board that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997). The Board gives limited weight to the equalization argument presented by Petitioner.

The Board is convinced that sufficient data for comparison exists within the statutory base period; Respondent's appraisal reports stable values, balanced demand and supply, and a three to six month marketing time. It, therefore, gives little weight to Respondent's Sale 2, which sold in 2008. Sale 3 carried a \$10,000.00 adjustment for remodeling, although the scope was not detailed. More weight is given Sale 1, which appears to be more similar to the subject.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$250,000.00

The Denver County Assessor is directed to change their 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 29th day of February, 2012.

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.

Milla Crichton