

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>BARTHOLOMEW J. &amp; MARIETTA L. CRESCI,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 61133</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 4, 2013, Diane M. DeVries presiding and MaryKay Kelley reviewing. Petitioners appeared pro se. Respondent was represented by Mitch Behr, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**1324 Gilpin Street, Denver, Colorado  
Denver County Schedule No. 05021-11-007-000**

The subject property is a 2,960 square foot brick two-unit residence with basement and garage. It was built in 1896 on a 6,250 square foot site in the Cheesman Park neighborhood which encompasses a large city park, high-rise condominium buildings, single family homes and two-to-four unit homes. The subject is located in the neighborhood designated as "historic."

Petitioners are requesting an actual value of \$167,800 for the subject property for tax year 2011. Respondent assigned a value of \$277,900 for the subject property for tax year 2011.

Mrs. Cresci testified as the first witness for Petitioners. Mrs. Cresci informed the Board that the subject was damaged by fire in 2002. The fire caused extensive damage to the subject's roof. According to Mrs. Cresci, Petitioners have been unable to obtain a contractor to perform repairs to the subject's roof due to the specialized "like-for-like" repairs mandated by the subject's location within the historic neighborhood. Mrs. Cresci presented a set of photographs depicting damage to the subject property. She also provided a copy of a Home Energy Report

prepared by Xcel Energy, indicating that, within a 12-month period, the subject property utilized 63% more energy compared to the neighboring properties.

In addition, Mrs. Cresci presented a market approach to value the subject property. Petitioners' market approach consisted of three comparable sales ranging in sale price from \$347,549 to \$424,100 and in size from 2,455 to 3,268 square feet. After adjustments were made, the sales ranged from \$126,004 to \$211,350.

Petitioners argued that the subject's 2010 value was previously reduced by \$215,600 to reflect the condition of the property. Petitioners referred to the \$215,600 reduction as the "damage reduction." Further, Petitioners indicated that the 2011 value placed on the subject by the assessor's office was \$383,400, and that value reflected the declining economic conditions. To arrive at the subject's value, Petitioners subtracted the \$215,600 "damage reduction" from the \$383,400 value established by the assessor's office, arriving at \$167,800 for the subject for the 2011 tax year. Petitioners believed that the \$167,800 value reflected both the economic conditions in the area and the structural damage to the property.

Mr. Cresci also testified for Petitioners. He elaborated as to the physical condition of the subject and pointed out that his neighborhood is prone to criminal activities. Mr. Cresci also stated that he believed that the neighborhood's designation as "historic" has been causing multiple foreclosures in the area.

Further, Petitioners presented the testimony of Mr. Paul Schechter, Petitioners' neighbor. Mr. Schechter indicated that he has seen Petitioners' home and personally observed the fire damage. He also stated that the condition of the neighborhood, as a whole, has been declining.

Respondent presented a value of \$325,300 for the subject property based on the market approach.

Respondent's witness, Timothy K. Muniz, Certified General Appraiser, presented four comparable sales ranging in sale price from \$415,000 to \$485,000 and in size from 2,510 to 2,670 square feet. After adjustments were made, the sales ranged from \$284,501 to \$362,341.

Mr. Muniz's adjustment for condition was determined to be \$125,000. The witness explained that he was familiar with a building similar to the subject where interior was "totally damaged" by water, resulting in \$175,000 repair costs. The witness opined that since the subject was not "totally damaged" but "considerably damaged," a \$125,000 adjustment was more appropriate. Mr. Muniz correlated to a 2011 actual value by the market approach at \$325,300.

Mr. Muniz also testified that the historic neighborhood designation requires that any renovations to the exterior of a structure must be accomplished using "like for like" replacement materials; the interior, however, may be remodeled any way the homeowner may see fit.

Respondent assigned an actual value of \$277,900 to the subject property for tax year 2011.

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

The Board agrees with Petitioners that Respondent did not adequately adjust for the damage to the subject property in light of the parties' agreement as to the extensive nature of the damages. However, Petitioners did not present a "cost to cure" calculation for the subject and could not quantify the economic impact of the subject's location within the "historic neighborhood." The Board recognizes that the costs of exterior repair are considerably higher for structures within historic neighborhood. The Board took into consideration Mr. Muniz's testimony pertaining to the \$175,000 cost to cure of a property similar to the subject. While the witness discounted that figure to \$125,000, the Board believes that the full \$175,000 cost should be used in adjusting for condition of the subject property. However, even after applying the full \$175,000 adjustment, the discounted value is nevertheless higher than the 2011 actual value set by the Denver County Board of Commissioners at \$277,900.

Board does not concur with Petitioners' "damage reduction" of \$216,000 since this is not an actual "cost to cure" value but rather a mathematical calculation of the original mass appraisal value assigned to the subject property less the value assigned by the BAA in the tax year 2010 appeal. This condition deduction is not an acceptable appraisal practice. Actual "cost to cure" is appropriate in determining the actual cost to renovate the subject property taking into account the requirements of the "historic neighborhood" designation.

### **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 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 19th day of March, 2013.

**BOARD OF ASSESSMENT APPEALS**

*MaryKay Kelley*

MaryKay Kelley

*Diane M DeVries*

Diane M. DeVries

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

*Milla Crichton*

Milla Crichton

