

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THOMAS E. KUSPIEL,</p> <p>v.</p> <p>Respondent :</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63466</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 28, 2014, Brooke B. Leer and Debra A. Baumbach presiding. Petitioner appeared *pro se*. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**413 Galapago Street, Denver, Colorado
Denver County Schedule No. 05102-09-038-000**

The subject is an attached, 2-story, end unit row house located in the Baker Subdivision, in the City of Denver. The residence was constructed in 1887, and includes 1,440 above-grade living area and 80 square feet of unfinished cellar area. It has three bedrooms, one full bathroom and one half-bathroom, porch and balcony. The residence is brick and stucco exterior. The subject is rated as “average” condition. There is off-site parking and the site area is 1,384 square feet.

Petitioner is requesting an actual value of \$204,700 for the subject property for tax year 2013. Respondent assigned a value of \$221,500 for the subject property for tax year 2013.

Petitioner contends Respondent has mischaracterized the subject’s condition, size and physical attributes resulting in overvaluation of the subject property. Mr. Kuspiel described the property as in average condition with limited improvements. There have been several roof repairs dating back to 1981 when the property was purchased with the most recent repair in 2012. There has been minimal updating with some improvements made to the second story in

1985 and a new wood burning stove installed in 2013. According to Petitioner, the property has 1,384 square feet of living area, not 1,440 square feet reported by Respondent. The exterior landscaping is minimal and the home is adversely affected by graffiti from the surrounding properties.

Petitioner did not present a market approach to value the subject property. Instead, Petitioner presented photos demonstrating the exterior condition of the subject property and of the comparable sales presented by Respondent. Petitioner contended Respondent has used comparable sales that were significantly superior in condition and degree of remodeling. Mr. Kuspiel testified that after reviewing building permits obtained for improvements made to each of the sales, the adjustments made by Respondent for condition ratings were insufficient, indicating higher value conclusions.

Respondent presented a value of \$239,600 for the subject property based on the market approach. Respondent's witness, Ms. Diana L. Chilcutt, Certified Residential Appraiser, presented three comparable sales ranging in sales price from \$242,900 to \$290,000 and in size from 1,149 to 1,478 square feet. Respondent made adjustments for seller paid concessions, market conditions, lot size, condition, living area, baths, basement area and finish, cooling, garage and porch/patio. After adjustments were made for differences, the sales ranged from \$239,600 to \$255,300. Ms. Chilcutt correlated to the lower end of the range.

Ms. Chilcutt testified she was denied access to fully inspect the subject property and therefore performed an exterior inspection from the street. Ms. Chilcutt relied on the subject's property record information at the Assessor's Office for physical characteristics and square footage. Respondent testified she used three comparable sales all of which were also located in the Baker Subdivision. Adjustments were derived through market extraction and applied to the sales for all differences affecting the value. Ms. Chilcutt testified that she was able to support the condition adjustment calculation based on sales of properties with limited updating purchased by investors, improved and then resold for a 9% difference in the market.

Insufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2013.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced Respondent's market approach accurately reflects market value for the subject. The Board agrees that Respondent's sales are the most similar as they are located within less than half a mile from the subject property and are reflective of the market perception specific to that neighborhood. The sales all sold within the study period and required a moderate degree of adjustments.

The Board gave minimal consideration to Petitioner's value conclusion. Petitioner did not provide the Board with any alternative sales supporting lower market values in the neighborhood. In addition, Petitioner presented insufficient data or photos of the interior supporting a higher condition adjustment other than what was supported by Respondent's site specific appraisal analysis.

Respondent's assigned value is lower than the indicated value and well below the comparable sales prices prior to any adjustments. Therefore, the Board affirms the 2013 actual value assigned to the property of \$221,500.

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

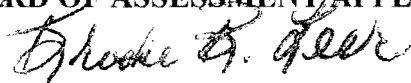
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 4th day of April, 2014.

BOARD OF ASSESSMENT APPEALS

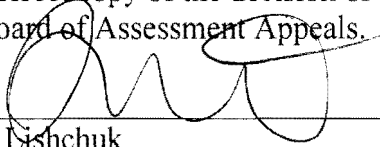


Brooke B. Leer

Debra A Baumbach

Debra A. Baumbach

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



Milla Lishchuk

