

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MURPHY BARRETT TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63486</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 25, 2014, Diane M. DeVries and Louesa Maricle presiding. Petitioner was represented by Theresa Murphy, Trustee of the Murphy Barrett Trust. Respondent was represented by David R. Wunderlich, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**7738 Newman Street, Arvada, Colorado 80005
Jefferson County Schedule No. 057621**

The subject property consists of a one-story ranch design single family detached residence with two-car attached garage situated on a 0.279-acre lot in the Oak Crest subdivision. It is described as frame construction with masonry exterior built in 1965. The residence has 1,330 square feet of main floor living area and a full basement with 1,263 square feet of finished space. The house has three bedrooms and two bathrooms on the main floor and there is one bedroom and a three-quarter bathroom (shower, but no bathtub) in the basement.

Petitioner is requesting an actual value of \$198,500 for the subject property for tax year 2013. Respondent assigned a value of \$248,900 for the subject property for that tax year.

Petitioner's representative, Theresa Murphy, testified that as of the assessment date, the property needed a new roof, the driveway was cracked and damaged, and the property has not been updated and still has most of the original fixtures and finishes. Although 94% of the basement is

finished, Petitioner claims the finished space is in poor condition and does not have any value. Ms. Murphy characterized the overall condition of the property as poor and comparable to a bank owned or Housing and Urban Development (HUD) property, meaning that the subject property has a high degree of deferred maintenance and would be considered distressed if were to sell. The property is also located approximately one-half mile from a railroad line, which detracts from value. Ms. Murphy and her husband own Murphy Construction Services, a business that buys and renovates residential properties and that currently owns several rental properties. Based on that expertise, Ms. Murphy presented an estimate of the cost of \$16,335 to replace the roof, replace the driveway, repair drywall and plumbing, paint, and replace carpet. Ms. Murphy testified that those improvements would only bring the residence up to a point that it would not sell as a distressed property.

Petitioner presented a large number of sales including seven sales deemed to be most comparable. The seven sales ranged in price from \$184,712 to \$245,000 and in size from 1,237 to 1,412 square feet. Ms. Murphy made adjustments to the sales for seller concessions, and for property characteristics including, but not limited to above ground square footage, basement size and finished area, number of bedrooms and bathrooms, fireplaces, garages, and lot size. Adjustments were also made to the sales for the condition of the improvements relative to the subject. Ms. Murphy relied on a previous appraisal of the subject property as a guide for the adjustments made for some of the differences in property characteristics. Replacement cost estimates prepared by Murphy Construction Services were used to adjust the comparables for condition items including remodeling at those properties and deferred maintenance at the subject. After adjustments were made, the sales indicated values ranging from \$183,990 to \$220,835. Based on this market analysis, the witness concluded to a value for the subject property of \$198,500.

Respondent presented Renee Nelson, a Registered Appraiser in Colorado and an appraiser employed by the Jefferson County Assessor's Office, as witness. Ms. Nelson presented an appraisal of the property based on the market approach. The witness testified that she had inspected the subject property and found it to be in good, livable condition for its age. She acknowledged that it has not had significant remodeling and that there are items of deferred maintenance. However, the witness testified that the overall condition was not poor and that the basement finish does contribute value to the property. The witness presented three comparable sales ranging in price from \$282,000 to \$320,000 and in size from 1,450 to 1,825 square feet of above ground living area. The witness made adjustments to the sales including, but not limited to, the date of sale, age, above ground square footage, basement square footage and finish, number of bathrooms, fireplaces, garages, lot size, and condition. After adjustments were made, the indicated values ranged from \$230,935 to \$276,700. Based on this analysis, the witness concluded to a market value of \$262,000 for the subject property.

Respondent assigned an actual value of \$248,900 to the subject property for tax year 2013, which is lower than the appraised value presented.

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

The Board is not persuaded by the evidence presented by Petitioner that the condition of the subject property was as poor as was claimed. After considering the evidence presented by both

parties, the Board also does not find it credible that the 94% basement finish contributes no value to the property.

Two of Petitioner's seven adjusted comparables were sales of HUD owned properties. Both parties agreed this was factual. The Board has relied on the *Assessor's Reference Library (ARL): Real Property Valuation Manual, Volume 3, page 3.17*, which states:

"REO sales are to be used in market analysis if proper sales confirmation procedures are followed. The lack of an immediate physical inspection to confirm the condition of the property may disqualify the sale, but REO sales are initially to be considered arm's-length transactions."

"When a sale is confirmed with an owner, the terms of the sale and condition of the property at the time of sale must be ascertained."

"To avoid a situation where subsequent physical changes become associated with the sale price, it is imperative that an interior and exterior inspection of the property be made as close to the date of sale as possible. Interior and exterior inspections are necessary for the confirmation of REO sales because lower sales prices for these types of properties are typically due to additional physical depreciation. Unless an inspection is made or it can be confirmed that the expenditures were minimal, i.e., only minor repairs were necessary, a resale of a foreclosed property should not be used to establish market value."

The Board finds that both parties agreed that Petitioner's Sales 1 and 2 were the re-sales of HUD owned properties. Although that does not automatically disqualify those sales from consideration, the Board finds that Petitioner did not provide adequate confirmation evidence to convince the Board that there was no atypical seller motivation in either sale relative to the sale price or other terms. The Board concludes that little weight can be given to Petitioner's Sales 1 and 2.

The Board finds that Petitioner's representative made lump sum adjustments to her comparable sales for condition relative to the subject and other items such as fireplaces, and air conditioning based on the full replacement cost estimates prepared by Murphy Construction Services.

According to the *ARL: Real Property Valuation Manual, Volume 3, page 2.38 and 2.39*:

"Occasionally, physical differences between comparable sales and the subject property can be determined by using the cost to cure method. Using an existing cost manual, cost valuation service, or other source of construction costs, the assessor can estimate what cost would be necessary to adjust for the differences between the comparable sale(s) and the subject."

"Caution should be exercised when using this cost adjustment technique. When applied properly, the cost approach usually generates the upper limit of value for property valuation.

Because of economic conditions within the economic area, the market may determine that the contributory value of the improvement is less than its cost.”

The Board finds that the methodology used by Petitioner, in effect, assumed that the physical items encompassed by the individual adjustments (roofs, appliances, cabinets, flooring, paint, et cetera) were all in new condition at every property, with no depreciation. It also assumed that the cost of every item as well as the cost to cure all deferred maintenance contributes 100% to the value of the property. The Board finds that Petitioner did not present evidence to support the brand new condition of the items included in the lump sum adjustments made to each sale. In addition, the contributory value of each improvement or superior feature must be weighed, not simply the cost to install a similar item. Proper appraisal methodology cautions that the sum of the parts does not necessarily equal the value of the whole. Therefore, the Board concludes that Petitioner’s adjustments for the full cost of the item or improvement is not supported and does not produce credible adjusted values for the remaining seven comparable sales presented.

There was significant testimony by both parties regarding Respondent’s Sale 1, which was in renovated condition, reportedly with high-end finishes, appliances, cabinets, fixtures, and other improvements. The Board finds that if that sale were to be excluded, Respondent’s Sales 2 and 3 have adjusted values of \$230,935 and \$266,200, which still support the value conclusion of \$262,000 presented by Respondent’s witness.

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).

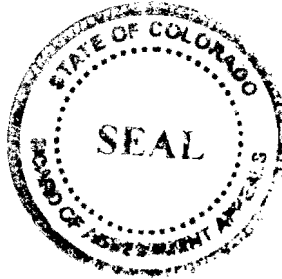
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 15th day of July, 2014.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Louesa Maricle

Louesa Maricle

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

Milla Iishchuk

Milla Iishchuk