

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 63575

Petitioner:

JOHN A. KINTZELE,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 4, 2014, James R. Meurer and Debra A. Baumbach presiding. John A. Kintzele, Esq., appeared on his own behalf. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**2474-2480 S. York Street, Denver, Colorado
Denver County Schedule No. 05266-12-018-000**

The subject property is a multi-family residential apartment complex consisting of four units located in the DU submarket of Denver. There is a total of 2,190 square feet of net rentable area with an average unit size of 548 square feet. There are three one-bedroom, one bath units and one two-bedroom, one bath unit. There are four open on-site parking spaces and the complex is situated on a 7,013 square foot site.

Petitioner is requesting an actual value of \$350,000 for the subject property for tax year 2013. Respondent assigned a value of \$377,800 for the subject property for tax year 2013.

Mr. Kintzele contends Respondent has overvalued the subject property by not giving adequate consideration to declining market conditions and deferred maintenance affecting the subject's value. According to Mr. Kintzele, the property suffers numerous deferred maintenance issues affecting the overall marketability and value.

Mr. Kintzele concluded to a value of \$350,000 for tax year 2013. Mr. Kintzele based the value on two stipulations: First, a signed stipulation entered between Petitioner and Denver County Board of Equalization on September 30, 2011, which valued the property at \$359,640 for tax year 2011; second, a signed stipulation entered between Petitioner and Denver County Board of Equalization on November 18, 2013 valuing an adjacent property owned by Petitioner located at 2466-2472 S. York St. at \$405,300.

Mr. Kintzele argued the stipulated value of \$405,300 pertained to the property with five units versus the subject property having four units. According to Mr. Kintzele, the difference in value between the five units and four units should be applied to the subject property. Using the 2011 stipulated values of \$405,300 and \$359,640 as a starting point for his calculations in determining the subject's 2013 value, Mr. Kintzele deducted costs for repairs estimated by his property manager, Mr. Jordan Strauss and deducted the value difference between the number of units (subject's 4 units versus comparable's 5 units), and concluded to a value of \$350,000 for tax year 2013.

Petitioner's witness, Mr. Jordan Strauss, Manager of Laureate, Ltd., and real estate broker testified that he manages several of Mr. Kintzele's properties. Mr. Strauss testified that based on necessary repairs and replacement costs over time, and upon his review of comparable sales of similar properties in the area, he concluded to a value of \$350,000 for the subject. Mr. Strauss noted he placed most weight on the required costs to replace the roof, gutters and water heaters. The hardscape has cracked and some areas need replacing. In addition, the rear yard has minimal landscaping. He also considered decreasing rents in the area since 2006.

Respondent's witness, Ms. April D. Roybal with Denver County Assessor's Office, presented an indicated value of \$442,000 based on the market approach. Ms. Roybal presented three comparable sales of multi-family residential apartments including the sale of the subject property. The sales ranged in sale prices from \$358,000 to \$617,500 or \$89,500 to \$154,375 per unit. After adjustments were made for personal property, time, location, unit size, garage area, and basement area, the sales ranged from \$345,096 to \$552,958 or \$86,274 to 123,896 per unit. Ms. Roybal testified sale two had a lower value as this sale is located on a main arterial with added traffic influences. According to the witness, the final indicated value is supported by the sales. Most weight was placed on sale one, owned by Petitioner.

Ms. Roybal presented a gross rent multiplier methodology to support the value concluded to by the market approach and concluded to a value of \$442,000.

Ms. Roybal testified all of the sales are located within the same market area and share similar market perception. Sale one was purchased by Petitioner during the relevant time frame and considered to be the best indication of value. An exterior inspection was performed as Ms. Roybal was not given access to inspect the interior units. Petitioner presented no maintenance cost estimates to determine if any adjustments were warranted for condition. All of the comparable sales used were reported to be in average condition similar to that of the subject property.

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). The Board finds that Petitioner did not meet that burden of proof. After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced Respondent's assigned value is supported and accurately reflects market value for the subject. The Board agrees that Respondent's sales are located within the same market as the subject sharing similar market influences and requiring limited adjustments.

Petitioner's witness, Mr. Strauss, testified to maintenance issues affecting the value and marketability of the subject. However, the Board was not convinced that atypical maintenance costs or capital expenses were present. Petitioner provided insufficient evidences to support above average maintenance or capital improvement costs that would result in a lower value for the subject property.

Mr. Kintzele argued that the 2011 values of \$405,300 (for an unrelated property) and \$359,640 (for the subject) which were stipulated between Petitioner and Assessor were binding on the parties when assessing the subject's values in the following years. According to Petitioner, the stipulated value for 2011 is relevant to determining the subject's value for 2013.

Proceedings before the Board of Assessment Appeals are *de novo* in nature. *Johnson v. Park County Bd. of Equaliz.*, 979 P.2d 578 (Col. App. 1999). A 2011 value determination reached by a stipulation at a lower level of appeal is not relevant to the Board's determination of the subject's 2013 value.

Colorado statutes set out methodology for establishing values for purposes of taxation. Pursuant to Section 39-1-103, C.R.S. residential property must be valued by use of the market approach. Petitioner's use of the 2011 stipulations as a base value for determining the subject's 2013 value is not an acceptable valuation method.

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 25th day of February, 2013.

BOARD OF ASSESSMENT APPEALS


James R. Meurer


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

