

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

Docket No.: 65686

Petitioner:

KEITH AND DENEIN CUSACK,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 16, 2015 and August 4, 2016, Diane M. DeVries and MaryKay Kelley presiding. Petitioner, Keith Cusack, appeared *pro se* on behalf of Petitioners. Respondent was represented by Casie Stokes, Esq. Petitioners are protesting the 2012 and 2013 actual values of the subject property.

Subject property is described as follows:

**1716 View Point Road, Lakewood, Colorado
Jefferson County Schedule No. 057252**

Following the July 16, 2015 hearing, the Board remanded this matter to Jefferson County for new proceedings and entry of a new assessment. In its Order on Remand, dated August 7, 2015, the Board ordered Respondent to classify the lower level of the residence as a garage and to consider the impact of the overhead power lines on the subject's value.

Subsequently, Jefferson County Abatement Officer, at an abatement hearing held on November 18, 2015, had reduced the subject's 2012 and 2013 valuations from \$560,000 and \$545,000 to \$526,000 and \$503,000, respectively. These conclusions reflected adjustments for a negative impact from power lines of \$11,000 which was based on paired sales analysis.

Respondent's witness, Dorin Tissaw, Residential Appraiser for the Jefferson County Assessor's Office, re-appraised the subject using the same three comparable sales as she did in her

original appraisals. As was ordered by the Board, she re-classified the subject's lower area from basement to garage. However, she considered the re-classification to be an "extraordinary assumption", which is defined as "something that is believed to be true for the sake of the appraisal but that may or may not be true as of the effective date of the appraisal."

In addition, Ms. Tissaw testified that in order to determine the effect of the power lines, she conducted an inspection of the subject on October 28, 2015. The witness took photographs of the power lines crossing the subject from several different angles and included them in her appraisal report. The witness testified that the Assessor's Office generally allows for an adjustment for powerlines when there are metal transformer boxes or transmission towers on or near the property. Ms. Tissaw testified that she did not observe either and, therefore, determined that the power lines did not require an adjustment.

Although Ms. Tissaw did not make adjustments for the powerlines on the subject, she testified that the Abatement Officer's values reflected approximately \$11,000 to \$12,000 adjustments for the powerlines.

Respondent's witness concluded to \$537,000 and \$525,000 for tax years 2012 and 2013, respectively, which support the Abatement Officer's value of \$526,000 for tax year 2012 and \$503,000 for tax year 2013.

The Board found persuasive Respondent's reappraisals of the subject property. The Board was convinced by Ms. Tissaw's testimony, which was based on her personal observations, as well as by the photographs that she included with her appraisal, that further adjustment for powerlines on the property was not warranted. Petitioner did not present any evidence to substantiate the effect of the power lines on the subject's value and marketability or to quantify such an adjustment. Similarly, while Petitioner argued that an adjustment was necessary to account for the loss of buildable area due to the presence of the power lines on the subject, Petitioner did not present the Board with any evidence to support that contention.

The Board finds that Petitioner did not meet its burden of showing that Respondent's 2012 and 2013 valuations of the subject were incorrect.

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

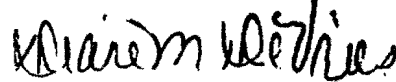
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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.

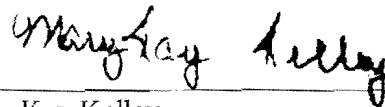
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 8th day of September, 2016.

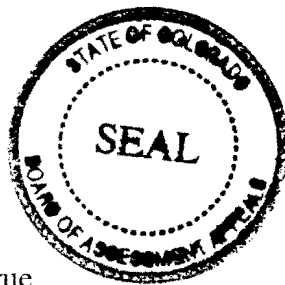
BOARD OF ASSESSMENT APPEALS



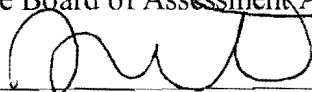
Diane M. DeVries



MaryKay Kelley



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



Milla Lishchuk