

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>ELAINE J. RAINS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 67522</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 23, 2016, Louesa Maricle and Gregg Near presiding. Petitioner appeared pro se. Respondent was represented by Mitch Behr, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**7925 W. Layton Avenue, #416  
Littleton, CO 80123  
Denver County Schedule No. 09113-01- 012-012**

The subject property consists of a 2 story interior row style condominium containing 1,632 square feet of living area above grade and a 783 square foot unfinished basement. The unit was constructed in 1974 and contains 3 bedrooms; 1 full, 1 3/4, and one 1/2 bath; fireplace and a 2 car detached garage. The unit is located in southwest Denver within the Provincetown Landing Phase 1 complex of 57 units.

Petitioner is requesting an actual value of \$130,000 for the subject property for tax year 2015. Respondent assigned a value of \$178,000 for the subject property for tax year 2015 which supports the value concluded by the Board of Equalization of \$159,600.

Petitioner presented numerous photographs of the subject property both interior and exterior. The photos were provided to illustrate the original finishes to the home; the poor maintenance by the HOA of the exterior features and the proximity of the property to adverse noise, pollution and congestion caused by 6-lane S. Wadsworth Boulevard. Because Petitioner's

home is adjacent to a ranch style unit, there is no protection from the influence of S. Wadsworth Boulevard on the second story of the subject.

Petitioner presented no comparable sales but provided criticism of those provided by the Assessor. Ms. Rains stated she had personally inspected the interiors of each sale used by Respondent. Respondent's sales 1 and 2 were renovated extensively and sale 2 has an interior location away from traffic. Respondent's sale 3 has partial renovations but Petitioner stated the buyers were intending on renovating the unit for sale after their new home is completed. Sale 3 also has a more interior location, away from S. Wadsworth's traffic and noise. Ms. Rains estimated it would cost \$60,000 to \$70,000 to bring her property up to a condition equal to Respondent's sales.

Petitioner is requesting a 2015 actual value of \$130,000 for the subject property.

Respondent's witness Mr. Brian Doehler, a Staff Real Property Appraiser in the Denver Assessor's Office, presented a value of \$159,600 for the subject property based on the market approach.

Mr. Doehler testified the first valuation rated the condition of Petitioner's home as average. After the first protest, Petitioner did not respond to a request for an interior inspection. It was ultimately decided to reduce the condition rating without performing an inspection.

Mr. Doehler presented three comparable sales from within Provincetown Landing Phase 1 ranging in sale price from \$197,500 to \$218,000. Each of the sales contained 1,632 square feet of living area above grade and each unit has a 783 square foot basement. After all adjustments were made, the sales ranged from \$204,700 to \$227,000.

Mr. Doehler presented the following value range:

Weighted Estimate:	\$218,419
Normal Value:	\$223,400
Market Value:	\$167,500
Assigned Value:	\$159,600

Based on the above, Mr. Doehler concluded to an assigned value of \$159,600.

Petitioner contends Respondent has failed to properly consider the condition, location and physical characteristics of the property. Respondent contends all the appropriate factors were considered, and adjustments made fully support the assigned value.

The Board notes Petitioner's concerns regarding condition and the location of the property but cannot help but be concerned by Petitioner's unwillingness to allow the Assessor to inspect the property interior. The Board finds the Assessor did increase the adjustment for condition given only photos as proof.

The Board finds the appraisal report provided by Respondent's witness to provide insufficient support for the value estimate. The report provided by the witness did not adequately explain the process leading to the value opinion.

Respondent's Exhibit A, pages 11 and 12, contain Mr. Doehler's support for his value opinion. Page 11 is identified as "Original Notice of Value Comps" and page 12 as "New Comps after condition adjustment". The Board finds that the Assessor's mass valuation analysis has been submitted and that Mr. Doehler simply compiled the documents used in determining the assigned value and, in fact, states within the transmittal letter that what he has provided is "*not an appraisal report*". Review of pages 11 and 12 provides the Board no direction leading to an assigned value of \$159,600.

In the absence of a satisfactory appraisal from Respondent, the Board is left to consider the market information that was provided. Mr. Doehler reported three transactions and the Board also heard testimony on these sales from Petitioner:

Prior to adjustment, Mr. Doehler's comparable sales ranged in sale price from \$197,500 to \$218,000. All the sales were the same design as the subject and all were from the same development. The most current of the transactions, Sale 3, sold in February of 2014 for \$197,500, the lowest price. Sale 1, the oldest sale, represents the high end at a sale price of \$218,000.

The first adjustment applied is for time to the June 2014 value date. After this adjustment was made within Respondent's report, the value range (e.g., the gap in price between the lowest and the highest sales) increased from \$204,713 to \$249,846, more than double the original variance. The goal of the adjustment process is to narrow the differences between the comparable sales to produce a more supportable value. Respondent's time adjustment has widened the difference. This produces the unusual conclusion that the adjusted value of the most current sale, (3) is significantly lower than one a year older; exactly the opposite of what is expected in an improving market.

As the adjustment applied for the passage of time is significant in this case (ranging up to 14.6% of the sale price) the Board has focused on this area. Assuming, *for the purposes of this argument only*, all other adjustments in Respondent's report to be correct, reason suggests that subtracting the adjustments applied by the appraiser for everything but time would then reveal a gap in price. That gap in price should show the direction of the market. If the market for this type of home is improving then the most current sale should be at the top and the oldest sale at the bottom of the price range. The Board applied this process as follows.

SALE	7925 W. Layton Ave. #527	7925 W. Layton Ave. #403	7925 W. Layton Ave. #518
SALE PRICE	\$218,000	\$205,000	\$197,500
SALE DATE	02/13	04/13	02/14
ADJUSTMENTS	(\$21,900)	(\$7,500)	0
ADJUSTED:	\$196,100	\$197,500	\$197,500

Again, *for the purposes of this argument only*, on the assumption that the other adjustments were all correct, the above grid suggests the market for this particular unit type has not significantly improved within the time period of the sales presented. Two of the three sales support an indication of \$197,500. Sale 1, stated by Respondent's witness as the most similar in location, suggests a slightly lower indication and the Board has adopted \$197,000 as well supported.

Accepting Mr. Doehler's adjustment of a negative 25% for condition and location produces an indication of \$147,750. Therefore, the Board adopts \$148,000 as the appropriate indication of actual value for the subject for tax year 2015.

The Board was presented with sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015. The Board found Petitioner's testimony regarding location and condition to be compelling and accepts the adjustments applied for these factors by Respondent. The Board was not swayed by Respondent's presentation of a value determination based solely upon mass valuation that was ultimately misleading. The mass appraisal analysis is not in question but rather Respondent's decision to rely upon this approach in a small market sample without sufficient explanation leading to a supportable conclusion.

The Board concluded that the 2015 actual value of the subject property should be reduced to \$148,000.

### **ORDER:**

Respondent is ordered to reduce the 2015 actual value of the subject property to \$148,000.

The Denver County Assessor is directed to change their records accordingly.

### **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

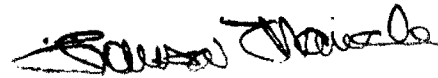
the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 24th day of March, 2016.

**BOARD OF ASSESSMENT APPEALS**

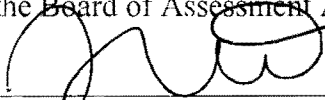


Louesa Maricle



Gregg Near

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



Milla Lishchuk

