

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARY V. KUSACK,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 68705 & 68706</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 19, 2016, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by her husband, Robert E. Maloney. Respondent was represented by Nina Atencio, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Dockets 68704, 68705, 68706 and 68708 were consolidated for purposes of hearing. This Order represents the Board's decision concerning Docket Nos.: 68705 & 68706. A separate Order will be issued for Dockets 68704 & 68708.

Subject property is described as follows:

**847 & 853 Ute Avenue, Grand Junction, Colorado
Mesa County Schedule Nos. 2945-144-33-007 and 2945-144-33-008**

The subject includes two lots that are used together for vehicle storage. Improvements are limited to chain link fencing and gates. 847 Ute Avenue is 5,937 square feet; 853 Ute Avenue is 3,125 square feet, totaling in size to 9,062 square feet.

For 847 Ute Avenue, Petitioner is requesting an actual value of \$20,618 for the subject property for tax year 2015. Respondent assigned a value of \$34,430 for that property for tax year 2015 but is recommending a reduction to \$32,000.

Petitioner contended that the property values in the subject neighborhood have gone down, with a reduction indicated by the assessor's records for properties located within a 0.25 to 0.50- mile distance from the subject. Mr. Maloney testified that he was aware of a storage site at 721 Nolan Avenue, approximately 0.25 to 0.50 miles from the subject that was leased on a monthly basis at \$150.00 per month. The assigned value for that site declined from \$26,720 in 2014 to \$24,850 in 2015. Both subject properties have been leased for the monthly amount of \$150.00.

Petitioner presented information concerning three comparable sales ranging in sale price from \$17,000 to \$85,000 and in size from 0.14 to 1.61 acres. No adjustments were made to the sales. Petitioner also discussed the purchase of the two subject properties for a total of \$50,000 in April 2011. Petitioner is requesting the value of the subject be reduced to the level indicated in the prior appraisal period.

Respondent's witness, Mr. Reed Orr, Colorado Certified General Appraiser with the Mesa County Assessor's Office, presented a market approach consisting of five comparable sales ranging in sale price from \$27,000 to \$195,000 and in size from 6,800 to 56,628 square feet, indicating a range of \$3.00 to \$6.32 per square foot. After adjustments were made, the sales ranged from \$4.91 to \$8.21 per square foot. Mr. Orr included the actual purchase of the subject in 2011 as Sale 5, applying an 11% downward adjustment for a decline in market conditions since the time of sale. Sale 5 indicated a value of \$4.91 per square foot after adjustment. While all five sales were considered, the greatest reliance was placed on Sales 4 and 5, which indicated a range of \$4.91 to \$5.69 per square foot. Mr. Orr concluded to a value within that range, at \$5.40 per square foot.

The value of the site addressed as 847 Ute Avenue was concluded at \$32,000. The value of 853 Ute Avenue was concluded at \$17,000, for a total value of \$49,000 for the two sites combined.

Petitioner contends that the property values in the subject area have declined, a fact reflected in Respondent's analysis with a downward adjustment for market conditions made to sales that occurred in the extended base period. Although Mr. Maloney discussed several sales that he believed to be comparable, insufficient evidence and no analysis was provided.

Petitioner presented the values assigned by the Assessor to other properties and argued that the subject was not valued fairly relative to similar properties. The Board can only consider an equalization argument as support for the value determined using the market approach. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P2c 14, 16 (Colo1997). For an equalization argument to be effective Petitioner must also present evidence or testimony that the assigned value of the comparable used was also correctly valued using the market approach. As that evidence and testimony was not presented, the comparison to the leased site at 721 Nolan Avenue was not persuasive to the Board.

Respondent presented a market approach that considered five sales that occurred within the extended base period allowed by Statute. The analysis included the actual purchase of the subject in 2011. Adjustments were made to the comparable sales, including downward adjustment for deteriorating market conditions between the oldest sales and the current base period. Sufficient

2011. Adjustments were made to the comparable sales, including downward adjustment for deteriorating market conditions between the oldest sales and the current base period. Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to Respondent's recommended value.

The Board concludes that the 2015 actual value of the subject property should be reduced to \$32,000 for 847 Ute Avenue (Docket 68705); and \$17,000 for 853 Ute Avenue (Docket 68706).

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$32,000 for 847 Ute Avenue (Docket 68705); and \$17,000 for 853 Ute Avenue (Docket 68706).

The Mesa County Assessor is directed to change his/her 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 8th day of September, 2016.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Sondra W Mercier

Sondra W. Mercier

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

Milla Lishchuk

Milla Lishchuk

