

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

Docket No.: 68709

Petitioner:

LYNN SEGAL,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 10, 2017, Diane M. DeVries and James R. Meurer presiding. Petitioner, Ms. Lynn Segal, appeared *pro se*. Respondent was represented by Michael Koertje, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**538 Dewey Avenue, Boulder, Colorado
Boulder County Schedule No. R0005309**

The subject is a two-story, single-family frame house located in the Mapleton Hill/Newlands submarket in the City of Boulder. The house was originally built in 1949 and has had several additions since the original construction. The structure includes 1,340 square feet on the first floor, 480 square feet on the second floor, and a 400 square foot detached garage with a 400 square foot studio above. There are three bedrooms and one full, one three-quarter, and one half bath. Site size is 6,415 square feet, the lot backs to an alley, and zoning is LR-E through the city of Boulder. The property is serviced by all public utilities. The condition of the improvements is considered to be average. Both parties noted that the property suffers from deferred maintenance. The property was purchased by the current owner in 2000, and a portion of the property is used as a short-term Airbnb rental. Respondent inspected the exterior and interior of the property.

Respondent assigned an actual value of \$730,000 for tax year 2015, but is recommending a decrease to the appraised value of \$685,000. Petitioner is requesting a value of \$450,000 to

\$500,000 for the subject based on various cost estimates to complete the repairs she considers to be necessary for the property.

Petitioner did not develop a market (sales comparison) approach for the subject property. Instead, Petitioner entered into evidence numerous cost estimates provided by contractors to address the deficiencies that she testified negatively affected the value of the subject property. These major deficiencies included, but were not limited to, problems with the structure, the roof, the siding, the patio, the heating/cooling, and the plumbing. Ms. Segal also considered the lack of energy efficiency and the cost of repairs to directly impact the subject's market value, and estimated that the cost to cure these issues amounted to approximately \$200,000 to \$300,000. Ms. Segal further testified that the current layout of the structure was not functional; that she could not find contractors to complete this work due to the redevelopment in the neighborhood; and that she could not afford the cost to address the necessary maintenance. Petitioner argued that Respondent did not consider these issues when concluding to an opinion of market value.

Relative to the valuation provided by the County, Respondent's witness, Ms. Jennifer Mendez, a Certified Residential Appraiser with the Boulder County Assessor's Office, developed a market approach, and presented three comparable sales to support her opinion of value. All of the sales were located in the same or similar neighborhoods, and sale prices ranged from \$615,000 to \$675,000 prior to adjustment, and \$680,640 to \$721,756 subsequent to adjustment. The significant adjustments to the sales consisted of date of sale (time), living area square footage, basement and basement finish, detached garage, carport, baths, effective age, site size, carriage house, and deferred maintenance. Equal weight was given to three comparables subsequent to adjustment to conclude to the market value of \$685,000. Ms. Mendez testified that the property was habitable and in overall average condition, and adjusted the comparables \$75,000 for the deferred maintenance. She further testified that the estimate by Petitioner included costs to remodel the property, as opposed to the costs to cure the deferred maintenance.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property should be valued below Respondent's recommended value of \$685,000 for tax year 2015.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Section 39-1-105, C.R.S., provides that all property in the State of Colorado is to be valued taking into consideration property characteristics as they exist on the January 1st date of assessment.

Sufficient evidence was presented at the hearing, by both parties, to convince the Board that the subject property suffered from deferred maintenance issues on the January 1, 2015 assessment date. However, parties' estimates as to the cost of necessary repairs differed substantially. While Respondent estimated the cost of repairing Petitioner's home to be \$75,000, Petitioner concluded to a range of \$200,000 to \$300,000. The Board finds Respondent's estimated cost of repairs to be most supportable. The Board finds that Petitioner's \$200,000 to \$300,000 estimate went beyond the necessary repairs and included cost of renovations. While the cost of any necessary repairs can be considered by the Board, the cost associated with any

hypothetical remodel contemplated by the property owner cannot be considered by the Board in determining the subject's value for tax purposes.

After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales provide realistic support for a conclusion of market value for the subject property. The sales used by Respondent were all located in similar neighborhoods, reflected market driven adjustments, and were representative of the market during the required statutory period. The Board finds that Petitioner presented insufficient probative evidence to support Petitioner's allegations of error within Respondent's valuation.

The Board finds that Respondent's recommended value of \$685,000 for the subject property for tax year 2015 is well supported.

ORDER:

Respondent is ordered to reduce the subject's 2015 value to \$685,000. Boulder County Assessor is directed to update 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).

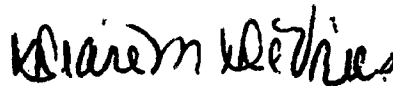
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

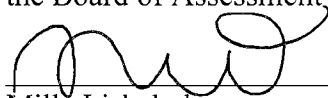
DATED and MAILED this 28th day of March, 2017.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

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



Milla Lishchuk



James R. Meurer

