

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MONTROSE MANOR, LLC</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 69213</p>
<p>ORDER</p>	

THIS MATTER came before the Board of Assessment Appeals on October 31, 2017, Sondra W. Mercier and Debra A. Baumbach presiding. Ms. Edith Fredericka Hancock appeared pro se on behalf of Petitioner. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2016 valuation of the subject property.

Procedural Background

The Board held a hearing on the merits of Petitioner’s appeal on April 12, 2017. On May 17, 2017, the Board issued a Decision reducing the subject’s 2016 value to \$966,500 from Respondent’s assigned value of \$1,267,070. On May 30, 2017, Respondent submitted a request to reconsider the Board’s May 17, 2017 Decision with respect to the Board’s calculation of adjustment for the subject’s deferred maintenance.

On June 9, 2017, in light of Respondent’s request to reconsider and being unable to determine the subject’s value based on the evidence previously presented at the hearing, the Board issued a new Decision remanding the matter back to Respondent for a new assessment. On June 9, 2017, the Board received Respondent’s request to reconsider the Board’s June 9, 2017 Decision in regards to the Board’s application of the location adjustment.

On July 10, 2017, having weighed the arguments set out in Respondent’s June 9, 2017 request to reconsider, the Board issued a Decision directing Respondent to prepare a new assessment for the subject property with consideration given to the subject’s over-built size and

deferred maintenance. Following the Board's order, Respondent submitted a new assessment of the subject property on or about August 15, 2017 reflecting the subject's 2016 value at \$1,031,000. As Petitioner disagreed with Respondent's re-assessment of the subject, this matter was set for a new hearing.

October 31, 2017 Hearing

The hearing held on October 31, 2017 was a continuation of the hearing previously held on April 12, 2017 and all of the evidence previously admitted at the April 12, 2017 hearing was incorporated into the record before the Board. The Board also admitted Petitioner's new exhibits that were not previously presented at the April 12, 2017 hearing, with the exception of Petitioner's Exhibits 6, 21 and 22. Likewise, the Board admitted Respondent's Exhibits A-1 and E-1.

Petitioner presented Mr. John. D. Renfrow, Realtor/Broker as an expert witness. Mr. Renfrow presented a market approach to value the subject property. His market approach consisted of three comparable sales, all taking place within the extended base period, and ranging in sale prices from \$585,000 to \$635,000 and in sizes from 4,823 square feet to 6,810 square feet. After adjustments for lot size, river frontage and location, the witness concluded to a 2016 value of \$754,445.87.

Mr. Renfrow argued that there is a significant difference in values between properties located in the northern side of Montrose as opposed to those located south of Montrose. According to the witness, properties located in the southern part of Montrose carry 20-30% higher values than those, as the subject, located in the northern Montrose. Mr. Renfrow compiled historic sales data within Montrose and nearby areas and argued that the subject's location in the northern side of Montrose requires a 20% negative adjustment.

Mr. Renfrow reviewed Respondent's sales comparison approach and argued that the sales that Respondent chose were of superior quality and in superior locations. According to Petitioner's witness, Respondent made inadequate adjustments to Respondent's comparables to account for the subject's inferior location and over-built size.

Petitioner requested a value of \$750,000 to \$850,000 for the subject property for tax year 2016.

Respondent presented Mr. Brook Moyer, Certified Residential Appraiser, as an expert witness. Mr. Moyer prepared an appraisal reflecting the subject's value of \$1,031,000 for tax year 2016. Respondent's witness testified that the new appraisal that he prepared for the October 31, 2017 hearing was essentially the same as the appraisal prepared for the April 12, 2017 hearing, with two exceptions. First, Respondent made a greater deferred maintenance adjustment, adopting Petitioner's deferred maintenance estimate of \$118,923. Second, Respondent made a minor adjustment to the subject's value based on basement finish.

Further, Mr. Moyer testified that his original report as well as the re-appraisal prepared for the October 31, 2017 hearing addressed the subject's over-built size (super-adequacy/incurable functional obsolescence). According to Mr. Moyer, he prepared a paired sales analysis to extract the contributory value of the subject's square footage above that of the comparable sales. He selected paired sales that were similar in location, quality and style but vastly different in size in an effort to determine the contributory value of the additional square footage.

Mr. Moyer explained that the concluded value of \$55.00 per square foot for the subject property reflects the findings from his paired sales analysis. In Mr. Moyer's opinion, a typically-sized home of the subject's quality would be valued upwards of \$200.00 per square foot. The witness described the \$55.00 per square foot value assigned to the subject as "modest" and testified that this value adequately reflects the subject's over-built size (super-adequacy/incurable functional obsolescence).

Next, Mr. Moyer presented rebuttal evidence addressing Petitioner's argument for a 20% location adjustment based on the subject's location in the northern side of Montrose. The witness presented sales from west and north-west area of Montrose and compared them to the sales located in south and south-west area of Montrose. According to his analysis, Mr. Moyer concluded that the values were comparable in both north and south sides of Montrose and therefore Petitioner's 20% adjustment for location was unsupported.

The Board's Findings

The burden of proof is on a protesting taxpayer to show that the assessor's valuation is incorrect by a preponderance of the evidence in a de novo BAA proceeding. *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo.2005). After considering the testimony and evidence presented at the hearing, the Board finds that Petitioner presented insufficient probative evidence to convince the Board that Respondent's reassessed value of \$1,031,000 for the subject for tax year 2016 is incorrect.

Respondent's witness prepared a paired sales analysis in order to quantify an adjustment necessary to account for the subject's over-built size. As a result of this analysis, Respondent concluded to a value of \$55.00 per square foot for the subject, which is a significant reduction in value in comparison to the average-sized homes of the same quality and in the same area as the subject. Petitioner did not present any evidence to dispute the validity of Respondent's paired-sales analysis or to indicate to the Board that Respondent's adjustment for over-built size was incorrect.

In addition, the Board finds that Respondent adequately adjusted the subject's value to account for deferred maintenance. Respondent's re-appraisal adopted in its entirety Petitioner's deferred maintenance value estimate of \$118,923 which was based on market costs to repair.

Further, the Board did not find Petitioner's evidence persuasive. Petitioner selected comparable sales which took place within the extended base period yet the Board is not convinced that there were no sufficient sales available in the subject area within the standard base period. In fact, Respondent's comparable sales data indicates otherwise. Moreover, Petitioner's comparable sales did not receive time-adjustments and Petitioner's Sale One included square footage of secondary living area from a detached garage conversion. In addition, after the adjustments, Petitioner's comparable sales indicated much higher values than the value requested by Petitioner for the subject. Finally, the Board was not convinced by Petitioner's north- versus south-of-Montrose location adjustments.

Conclusion

The Board finds that Respondent's value of \$1,031,000 accurately represents the subject's value for tax year 2016. Montrose County Assessor is ordered to adjust 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 19th day of January, 2018.

BOARD OF ASSESSMENT APPEALS

Sondra W m

Sondra Mercier

Debra A. Baumbach

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

Milla Lishchuk

