

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PAUL R. THOMAS,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70409</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 9, 2017, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**3433 South Jebel Court, Aurora, Colorado
Aurora County Schedule No. 1975-35-3-27-001**

The subject is a 2,213-square foot brick ranch with basement and garage. It was built in 2005 in the Conservatory subdivision. While it backs to a greenbelt and park, it also sits roughly a half-block from East Hampden Avenue, a major east-west arterial, and therefore experiences considerable traffic noise.

Respondent assigned a value of \$405,000 for the subject property. Petitioner is requesting a value of \$340,000.

Mr. Thomas compared the subject site to those directly on Hampden Avenue which have sound barriers of four-foot concrete walls and double walls of trees. He testified that the subject is lacking sound barriers and the nearby park's marshes and creeks act as a swale, funneling traffic noise directly to the subject site.

Mr. Thomas purchased his home eight years ago and has noted increasingly loud traffic noise over the years. He argued that traffic noise interrupts sleep, impacts peace of mind, compromises living conditions, and devalues his property. He presented a traffic log, dated between July 10th and 18th of 2017, totaling 114 eighteen-wheel rigs, construction and commercial garbage trucks, and automobiles and motorcycles with loud mufflers. It indicates the loudest traffic noise between 6:00 A.M. and 9:30 A.M., 3:00 P.M. to 7:00 P.M., and 9:30 P.M. to 11:30 P.M.

Mr. Thomas, citing a published document by the Assessor, estimated a 22.5% increase in value over a three-year period (the second quarter of 2014 to the second quarter of 2017). He compared this to the actual two-year increase in value for his property of 37.47%, which he considers an unrealistic value, higher than others in the neighborhood. He is of the opinion that no appreciation in his property's value has occurred since tax year 2015.

Mr. Thomas is requesting a value of \$340,000, which is the subject's actual value for tax year 2015, based on his argument that his home's value remains the same.

Respondent's witness, Melissa S. Guzzino, Ad Valorem Appraiser for the Arapahoe County Assessor's Office, presented a value of \$408,000 for the subject property based on the Market Approach. She presented three comparable sales: Sales One and Two, with sale prices of \$385,000 and \$330,000, were the same floor plan as the subject; and Sale Three, with a sale price of \$279,900 (while smaller, it was selected for its Hampden Avenue frontage). Adjusted sale prices were \$400,700 and \$421,995 (Sales One and Two) and \$388,288 (Sale Three). Ms. Guzzino concluded to the mean (average) or \$408,000 for the subject.

Ms. Guzzino considered the subject lot's premium location (greenbelt and park) to offset the traffic noise. For the 2017 tax year, the subject site was valued at \$80,000 in comparison to Sale One's site at \$88,000 (narrow greenbelt and no traffic influence), Sale Two's site at \$80,000 (neither positive nor negative influences), and Sale Three's site at \$76,000 (backs to Hampden Avenue). Ms. Guzzino testified that her office considers Hampden Avenue traffic to carry a \$4,000 negative impact.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

The Board is convinced that the subject has both positive and negative influences. While the park offers privacy and view, the Board is convinced that Hampden Avenue's traffic noise significantly affects marketability and value.

Based on Petitioner's evidence and testimony, the Board considers \$4,000 to be an insufficient adjustment for homes directly affected by Hampden Avenue's traffic noise. Further, it is not convinced that the subject's park location offsets the traffic noise. Therefore, the Board has little confidence in Respondent's lot values reported in the appraisal.

The Board finds Respondent's time adjustments to be adequately supported. Petitioner's argument that Respondent's time adjustments were not warranted is neither market-based nor convincing.

The Board notes that Respondent's averaging of adjusted sale prices is not an acceptable appraisal methodology. The Board is persuaded that traffic noise is a significant negative influence and, thus, finds that Sale Three is the best indicator of value for the subject.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$388,000.

The Arapahoe 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 21st day of November, 2017.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

Milla Lishchuk

Milla Lishchuk

