BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 71439
Petitioner: **MALIREDDY S. & SYAMA M. REDDY,** v. Respondent: **DENVER COUNTY BOARD OF EQUALIZATION.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 5, 2019, Debra A. Baumbach and Amy J. Williams presiding. Petitioner, Malireddy Reddy, appeared pro se on behalf of Petitioners. Respondent was represented by Julie Schneider, Esq. Petitioners are protesting the 2017 actual value of the subject property.

A motion to consolidate evidence and testimony for three subject properties was granted, with the understanding that three separate orders will be issued by the Board. Petitioner and Respondent also stipulated that that the only issue for consideration before the Board was the land value assigned to each subject property. Therefore, this Order is for one of the three subject properties, though the following discussion will reference evidence and testimony of all three.

During the course of the hearing, Petitioners' Exhibits 1 and 2 and Respondent's Exhibit A were admitted into evidence.

Subject property is described as follows:

2528 Larimer Street, Denver, Colorado
Denver County Schedule No. 02342-07-006-000

The subjects of this hearing are three subdivided parcels located in the River North neighborhood, northeast of the Denver Central Business District. All three parcels front along Larimer Street. The subject identified as 2550 Larimer Street is located at the corner of Larimer Street and 26th Avenue, with the other two subjects being interior lots, adjacent one to the other, but separated by one lot from 2550 Larimer Street. The subject lot sizes and legal descriptions are:

2550 Larimer Street: Lots 1 through 6, Block 59, Curtis and Clarks Addition – 18,870 SF
2532 Larimer Street: Lot 8, Block 59, Curtis and Clarks Addition – 3,145 SF
2528 Larimer Street: Lot 9, Block 59, Curtis and Clarks Addition – 3,145 SF

Petitioners are requesting the following actual values for tax year 2017:

2550 Larimer Street: $863,200
2532 Larimer Street: $141,000
2528 Larimer Street: $142,800

Respondent assigned the following actual values for tax year 2017:

2550 Larimer Street: $1,699,300
2532 Larimer Street: $282,100
2528 Larimer Street: $284,100

Respondent's assigned values are supported by the site-specific appraisal report as follows:

2550 Larimer Street: $1,774,800
2532 Larimer Street: $289,300
2528 Larimer Street: $289,300

To support the requested value, Mr. Reddy offered testimony and evidence with respect the business of manufacturing cheese bacterial cultures, said manufacturing being the specific use of the subject property. Due to the low price of milk, his business is currently struggling to increase revenues. Additionally, Mr. Reddy testified that although the surrounding neighborhood is being re-developed with new restaurants, bars and multi-family residential units, he continues to operate a manufacturing business in the area because government regulations would make relocating his business quite challenging. Mr. Reddy also referenced Respondent's comparable sales, stating that the average of the land sales utilized which were located on Larimer Street, excluding 2420 Larimer Street, calculated to $74.23 per square foot. He also noted that these sales fell within a fairly tight range, $70.31/sf; $74.84/sf; and $77.55/sf, with 2420 Larimer Street falling well outside that range at $111.84/sf. Mr. Reddy concluded by requesting that the subject properties be valued at $75.00 per square foot as supported by the average of Respondent's Larimer Street land sales, after excluding 2420 Larimer Street.

During cross examination, Mr. Reddy stated that he "could live with" either his requested values or values based upon $75.00 per square foot. Land values based upon $75 per square foot are as follows:

2550 Larimer Street: $1,415,200
2532 Larimer Street: $235,875
2528 Larimer Street: $235,875

Respondent's witness, Greg Feese, Certified General Appraiser with the Denver County Assessor's Office, presented an appraisal report to support the values assigned by the Denver County

Board of Equalization based on the Sales Comparison Approach. All three subject properties were valued using the same five sales. The five comparable sales had the following time-adjusted sale prices per square foot:

Sale No. 1: 2420 Larimer - $111.84/sf
Sale No. 2: 2945 Larimer - $70.31/sf
Sale No. 3: 3405 Walnut - $112.37/sf
Sale No. 4: 3420 Larimer - $74.84/sf
Sale No. 5: 3424 Larimer - $77.55/sf

Mr. Feese testified that Sale No. 1 was located closer to downtown, thus the higher sale price. He also stated that the buyers of Sale No. 3 may have known that a zone change to a higher density district would be granted, which could partially explain the higher sale price. However, he was not able to confirm this fact with a party to the transaction. Mr. Feese opined that Sale No. 1 was closest in proximity to the subjects and considered the best comparable. Utilizing all five sales, but applying more weight to Sale No. 1, Mr. Feese reconciled to a value of $94.00 per square foot for subject 2550 Larimer and $92.00 per square foot for subjects 2532 and 2528 Larimer.

A taxpayer's burden of proof in a BAA proceeding is well-established: a protesting taxpayer must prove that the assessor's valuation is incorrect by a preponderance of the evidence in a *de novo* BAA proceeding. A taxpayer who meets the burden of demonstrating that an assessment is incorrect need not also show an alternative valuation under the market approach to prevail. *Reiber v. Park Cnty. Bd. Of Equal.*, 14CA6 (Colo. App. 2014).

Petitioners did not provide comparable sales to support their original requested value. Rather, Petitioners' original requested value was unsupported. Petitioner also requested a value reduction to $75.00 per square foot based upon the average of three of the sales provided within Respondent's appraisal report, eliminating the two sales with the highest dollar per square foot from consideration. Respondent provided an appraisal report wherein five sales were utilized to conclude to a site-specific value for all three subject properties. Within the reconciliation analysis, Mr. Feese appropriately weighted the five sales based upon their comparability to the subject and his knowledge of the facts surrounding the sale.

Summarily, Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

ORDER:

Petition is denied.

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 5th day of March, 2019.

BOARD OF ASSESSMENT APPEALS

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

Milla Lishchuk

Debra A. Baumbach

Debra A. Baumbach

Amy J. Williams

Amy J. Williams

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS