

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CINDY AND WILLIAM DEVILLIER,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71893</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 26, 2018, Sondra Mercier and Cherice Kjosness presiding. Ms. Cindy DeVillier appeared pro se on behalf of Petitioners. Respondent was represented by Meredith Van Horn, Esq. Petitioners are protesting the 2017 actual value of the subject property.

The admission of Petitioners' Exhibits 1 through 10, Respondent's Exhibits A and B, and Respondent's witness, Katherine Parson Cordova, as an expert in real estate appraisal were stipulated.

Subject property is described as follows:

**12339 Newport Court
Brighton, CO
Adams County Schedule: 0157132422039**

The subject property consists of a two-story residence, built in 1995 with four bedrooms, two and one-half baths, and a three car garage on a .13 acre corner lot in Holly Crossing Subdivision. It contains approximately 1900 square feet above grade with a fully finished 596 square foot basement. It sold during the current base period, on October 30, 2015, for \$324,047. The listing describes the condition as good with updates.

Petitioners are requesting an actual value of \$289,000 for the subject property for tax year 2017. Respondent assigned a value of \$324,000 for the subject property for tax year 2017.

Petitioner testified that she and her husband purchased the subject property as a rental investment property. There was a \$7,500 seller concession at the time of sale due to a home inspection report showing damage to the roof and the need for some mud jacking. Petitioner did not present any comparable sales, but did have objections to the time adjustment applied in Respondent's appraisal and lack of adjustments for items she considered superior to the subject property. Petitioners' Exhibit 10 lists the superior updates and characteristics of the comparable properties used in Respondent's appraisal. Petitioner relied on the base period purchase price, plus a modest time adjustment for the 8 months to the end of the base period, and deduction for the needed repairs. In cross examination, Petitioner stated that the repairs had not been made. The roof was good for another few years and the mud-jacking was not a critical issue.

Petitioners are requesting a 2017 actual value of \$289,000 for the subject property.

Respondent presented a value of \$324,000 for the subject property based on the market approach.

Respondent presented six comparable sales, including the sale of the subject. The unadjusted sale prices ranged from \$259,500 to \$308,000, and ranged in size from 1836 to 1999 square feet. The time adjustment applied was 1.2% per month. Adjustments were made for gross living area, basement area, basement finish, baths, garage, porches, and age. After adjustments were made, the sales ranged from \$313,869.60 to \$349,383.55.

Ms. Cordova testified that there were 348 sales in the subject marketing area which included several very similar subdivisions. From those sales, the statutory time adjustment was extracted. She testified that she considered the five other comparable sales to be in similar condition to that of the subject and the adjustments made were derived from multiple regression analysis. She also testified that Comparable 2 was not properly adjusted for time, and the correct time adjusted sales price would be approximately \$338,000. In answer to a question from the Board, she stated that no adjustments were made for seller concessions.

Respondent assigned an actual value of \$324,000 to the subject property for tax year 2017.

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

Time adjustment is mandatory per Section 39-1-104(10.2)(d), C.R.S., that states that "the level of value shall be adjusted to the final day of the data-gathering period." Respondent's appraisal included a graph showing the analysis of 348 sales of similar type and location to that of the subject property. The indicated adjustment was 1.2% per month. Petitioners provided no data to indicate the time adjustment was not correct.

Regarding the adjustment of seller concessions, the Assessors' Reference Library Volume 3 states:

“Seller assisted down payments should not be confused with seller concessions. For example, in the Housing and Urban Development (HUD) Handbook 4155. 1 REV-4 CHG-1, HUD permits sellers (or other interested third parties such as real estate brokers, builders, etc.) to contribute up to 6% of the property’s sales price toward the buyer’s actual closing costs, prepaid expenses, discount points, and other financing concessions. HUD defines other expenses (beyond those described above), paid on behalf of the borrower, as inducements to purchase. Further, HUD considers a dollar-for-dollar reduction to the sales price for inducement to purchase before applying the appropriate loan to value ratio. Similar consideration might be appropriate on loans not involving HUD.”

The recommendation of the Property Tax Administrator is for the county assessor to research the seller concessions to determine if they actually affected the selling price and to make appropriate adjustments. Respondent’s witness testified that no adjustment was made for seller concessions. Even if the sales used in Respondent’s appraisal are adjusted dollar for dollar for the declared concessions, the range of indicated values is \$313,869 to \$345,686 which supports the assigned value. In addition, Petitioner testified that the funds from the concessions were not used to make the repairs.

ORDER:

The 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 15th day of August, 2018.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Cherice Kjosness

Cherice Kjosness

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

Milla Lishchuk

Milla Lishchuk

