

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

Docket No.: 73637

Petitioner:

**JODY LYNN HOFFMANN AND RICHARD TODD
MUHLE,**

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 19, 2018, Diane DeVries and Cherice Kjosness presiding. Petitioner Richard Muhle appeared pro se on behalf of Petitioners. Respondent was represented by Michael A. Koertje, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Petitioners' Exhibits 1-3 and Respondent's Exhibit A were admitted into the record and Respondent's witness, Jennifer Mendez, was admitted as an expert witness.

Subject property is described as follows:

**2902 Colgate Drive, Longmont, CO
Boulder County Schedule No. R0049041**

The subject property consists of an average quality, ranch style, single-family residence, containing 1,576 square feet of living area above grade with no basement. It was built in 1972 on a site of 10,272 square feet. It has three bedrooms, two baths, and a 506 square foot garage.

Petitioners are requesting an actual value of \$240,000 for the subject property for tax year 2017. Respondent assigned a value of \$294,400 for the subject property for tax year 2017.

Mr. Muhle presented one comparable sale which was the same model house as the subject and on the same street (2928 Colgate Drive). It sold for \$229,000 in January of 2014. After

adjustments were made, Mr. Muhle concluded to the indicated value for the subject property of \$222,564.

Mr. Muhle testified that his father had lived in the house for most of his life and that except for a remodeled shower in 2003 and new carpet in 1985, the house is original 1972 standards with considerable deferred maintenance. The exterior of the home is only partial brick with the remainder wood siding which requires more maintenance, and all the windows are single pane. Petitioners' Exhibit 2 has pictures of the original plumbing fixtures, kitchen appliances, counters and cabinets. The brick portion has several cracks indicating that there has been some shifting of the foundation which is shown in Exhibit 2. There is no air conditioning, only a 50 square foot front porch and an uncovered rear patio. In addition, this home is the only one in the neighborhood that is located on two collector streets. One of these streets is Harvard Street which is high volume requiring a stop light, and is one of the few streets that is plowed in the winter. Mr. Muhle believes the increased traffic noise has a negative affect on the value of the home. Mr. Muhle testified that he considered all Respondent's sales to be superior to the subject.

Petitioners are requesting a 2017 actual value of \$240,000 for the subject property.

Respondent presented a value of \$330,000 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$295,000 to \$300,000 and in size from 1,480 to 1,592 square feet. After adjustments were made, the sales ranged from \$323,478 to \$345,027.

Respondent's witness, Jennifer Mendez, Certified Residential Appraiser, and Senior Residential Appraiser with the Boulder Assessor, testified that she was unable to inspect the interior of the subject. Several attempts were made to set an appointment, but the response came after the report was completed. She did not dispute the Petitioners' description of the subject property, and specifically looked for homes of similar age without substantial updating to use as comparable sales. She was able to find two such sales in close proximity to the subject. All were ranch styles with no basement, two-car garages and with similar years of construction.

Ms. Mendez made adjustments for time of sale, gross living area, number of baths, effective age, and lot size. Regarding the traffic factor, she testified that the assessor uses the City of Longmont traffic counts. Based on that count, she determined that the traffic noise did not show a significant impact on value.

Respondent assigned an actual value of \$294,400 to the subject property for tax year 2017.

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

Colorado Constitution Article X, Section 20 and Section 39-1-103, C.R.S. specify that the actual value of residential real property shall be determined solely by consideration of the market

approach to appraisal. The Board finds that Respondent appropriately completed a site-specific market analysis of the subject property, comparing sales of similar properties and adjusting for differences in property characteristics.

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 202, 208 (Colo.2005). After considering all the testimony and evidence the Board concludes Petitioners did not meet this burden.

The Petitioners' method of determining a value is more closely related to a cost approach in that Mr. Muhle deducted the cost of adding the features of the comparable to the subject. This is not a true sales comparison approach. To properly employ such an approach, the characteristics of the comparable are adjusted to the corresponding characteristics of the subject using the market consideration, not the cost of the differences. The market considerations are determined using market analysis. In addition, the time adjusted sale price of the only sale submitted by Mr. Muhle (2928 Colgate Drive) is \$302,349. Even after additional adjustments for superior characteristics, the assigned value is supported.

Respondent's witness presented an appraisal with three comparable sales and made market derived adjustments which is a proper sales comparison approach. This is the most credible evidence of value for the subject property for tax year 2017.

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).

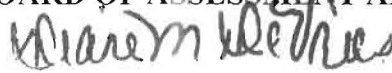
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

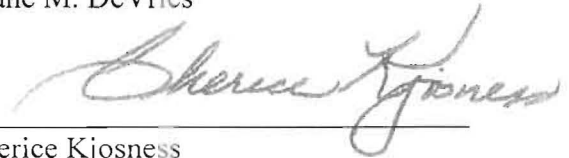
Section 39-8-108(2), C.R.S.

DATED and MAILED this 4th day of December, 2018.

BOARD OF ASSESSMENT APPEALS

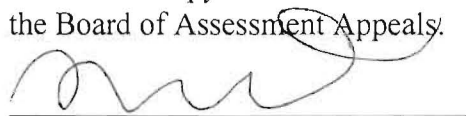


Diane M. DeVries



Cherice Kjosness

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



Milla Lishchuk