

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID H. SIMON,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 73770</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 2, 2018, Diane DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Jasmine Rodenburg, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board admitted Petitioner’s Exhibit 1 and Respondent’s Exhibit A.

Subject property is described as follows:

**704 Mohawk Drive, Boulder, Colorado
Boulder County Schedule No. R0012781**

The subject is a 76-unit apartment complex built in 1973 in a residential neighborhood of central Boulder. Eight wood-frame buildings total 60,480 square-feet located on a 183,344 square foot site. Basements are unfinished. The units average 854 square feet in size and are a mix of 40 one-bedroom and 36 two-bedroom units. Surface parking is available. Features include wall air conditioners, two common laundry rooms, and outdoor pool. The buildings have been maintained but not renovated.

Respondent assigned an actual value of \$12,000,000, which is supported by an appraised value of \$14,000,000. Petitioner is requesting a value of \$8,750,000.

Mr. Simon testified to standard maintenance of the subject buildings over the years and noted additional maintenance required of exterior walkways (cleaning, painting). He described Respondent’s sales as having brick/stone exteriors, which require less maintenance than the subject’s

frame exterior and flat roof yet offer better visual appeal. He also described the subject's high vacancy rate (20 or more vacancies in past years).

Mr. Simon did not present any comparable sales and rather discussed Respondent's sales. He considered Respondent's sales to be in better locations and constructed of superior materials. He described Sales One and Two as superior in location on the west side of 28th Avenue/Hwy 36 and closer to the University of Colorado campus, Sale Four as near a hospital, and Sale One with a roof replacement and better views.

Mr. Simon disagreed with Respondent's use of gross rent derived from rent rolls (\$1,136,820) in her GRM analysis, arguing that the subject's high vacancy rate resulted in an actual rent collection of \$950,000. He applied this figure to Sale One's GRM of 8.4 for a conclusion by GRM analysis of \$7,980,000.

Mr. Simon's requested value of \$8,750,000 was based on his review of Respondent's Sales Comparison Analysis, adjusting further for the sales' superior locations, exterior construction materials, and the subject's high vacancy rate. He also weighed his GRM analysis (\$7,980,000).

Respondent's witness, Sara M. Thorpe, Certified General Appraiser for the Boulder County Assessor's Office, presented a Sales Comparison Analysis with four sales within the same general area as the subject and with unit counts of 60, 92, 50 and 140. Sale prices ranged from \$9,710,000 to \$18,350,000. Adjustments were made for market conditions, unit size, and quality/condition. Adjusted sale prices ranged from \$10,917,234 to \$21,150,155. Ms. Thorpe relied on the per-unit value of \$195,893 times 76 units to conclude to a market value of \$14,887,900.

Ms. Thorpe made an interior inspection, noting that the subject has been maintained over the years and assigning average condition. She determined good proximity to the University's east campus and public transportation. She selected comparable sales based on age, location, and condition. She found no market reaction to the subject's wood frame exterior and flat roof.

Ms. Thorpe's market condition adjustments were based on a five-year study concluding to value increases graphed by months. She noted that Petitioner's methodology was based on gross sale price without consideration for market conditions that require trending of the sale prices of comparable sales to date of appraisal (June 30, 2016).

Ms. Thorpe presented a GRM formula, which ranged from 8.4 to 14.6 for the four sales. She applied the median of 11.7 to the subject's 2016 income (per rent rolls) of \$1,136,820, deriving a value of \$13,334,899. She also reviewed the Apartment Insight listing of 2017 annual rents, which concluded to an indicated value per GRM of \$14,042,246.

Ms. Thorpe correlated a value based on the Sales Comparison Analysis at \$14,887,900, the GRM analysis of \$13,334,899, and Apartment Insights conclusion of \$14,042,246, concluding to a value for the subject of \$14,000,000.

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

Both state constitution and statute require use of the market approach to value residential property. Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time and a variety of characteristics. Petitioner failed to do so. Respondent's evidence is more credible.

The Board acknowledges Petitioner's claims about the subject's inferior visual appearance due to frame construction, greater maintenance due to frame construction and wood walkways, lack of central air conditioning, and distance from campus and other amenities. It also acknowledges Respondent's opinion that none of these factors impact value negatively. Petitioner failed to present any market data with which the Board could make additional adjustments, and the Board finds it unlikely that adjustments would lower the subject's value below the assigned value.

The Board acknowledges Petitioner's disagreement with application of rent rolls in a GRM analysis rather than actual rents that reflect vacancies. It is standard appraisal practice to use gross rent in a gross-rent multiplier analysis, but it is imperative that comparable rental properties reflect similar conditions as the subject. Petitioner provided no alternative comparable rents to consider.

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.

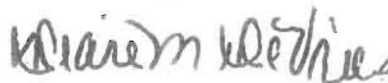
If the Board does not recommend its decision to be a matter of statewide concern or to have

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.

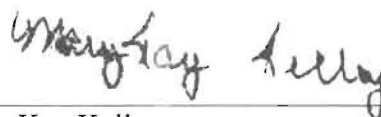
Section 39-8-108(2), C.R.S.

DATED and MAILED this 6th day of November, 2018.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



MaryKay Kelley

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



Milla Lishchuk

