

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>DAVID H. SIMON,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 73775</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 15, 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 Exhibits A and B.

Subject property is described as follows:

**1245 Elder Avenue, Boulder, Colorado  
Boulder County Schedule No. R0072653**

The subject is a 22-unit apartment complex built in 1984. The 16,747 square-foot wood-frame building is situated on a 30,480 square-foot site. Unit mix consists of six one-bedroom units (420 square feet) and 16 two-bedroom units (925 square feet). Twelve garage spaces are available.

Respondent assigned an actual value of \$4,800,000, which is supported by an appraised value of \$5,000,000. Petitioner is requesting a value of \$3,500,000.

Mr. Simon described the subject building as maintained but without renovation since the purchase in 1985. The roof and windows are original. There is no exterior brick, no common area, no pool, no separate dining areas, and no air conditioning. Situated in a residential area of North Boulder, the subject is not near the University of Colorado campus or the Pearl Street Mall, both of

which demand higher prices and rents, in his opinion. The subject has experienced chronic vacancies.

Mr. Simon discussed Respondent's Sale Three, describing it as superior to the subject with a more modern exterior appeal, cathedral ceilings and skylights, separate dining areas, and walk-in closets. He argued that this sale brought a higher price, that the purchasers and tenants recognize appearance and amenities, and that Respondent's witness refused to make appropriate adjustments. Mr. Simon discussed Respondent's Sale One, which sold for \$3,000,000 or \$150,000 per unit (20 units) or \$200,000 per unit if trended to June 30, 2016. He considered this sale to be superior to the subject because of its brick/stucco exterior, its creek location two blocks from the Pearl Street Mall, its large roof deck, and air conditioning. He concluded to a value for the subject of \$160,000 per unit or \$3,500,000 rounded.

In testimony, Mr. Simon offered 1155 Marine Street as a comparable sale. It sold for \$18,350,000 or \$200,000 per unit, rounded, for its 192 units and was superior to the subject in the following ways; location on The Hill across from campus, next to Alfalfa's Market, and two blocks from the Pearl Street Mall. Mr. Simon argued that the subject property, with a price per unit of \$218,000 based on its assigned value of \$4,800,000, should not be more valuable than 1155 Marine Street.

Mr. Simon comparing the subject to Respondent's Sale One and 1155 Marine Street, both discussed above, described the subject's inferior location, chronic vacancy, frame exterior, and its lack of amenities (no air conditioning, no central lobby). He concluded to a value for the subject of \$160,000 per unit or \$3,500,000 (rounded).

Respondent's witness, David Martinez, Ad Valorem Appraiser for the Boulder County Assessor's Office, made no interior inspection of the subject property. He presented a Sales Comparison Analysis with three sales with unit counts of 20, 22 and 16. Sale prices ranged from \$3,000,000 to \$4,760,000. Adjustments were made for market conditions, effective age, unit and bedroom counts, and garages. Adjusted sale prices ranged from \$4,453,645 to \$6,582,120. He placed most weight on Sales One (adjusted value of \$4,453,645) and Sale Two (adjusted value of \$5,582,120), concluding to the median at \$5,000,000.

Mr. Martinez based his comparable sale selection on age, size, number of units and bedrooms, and parking. He found no basis in the marketplace for differences in exterior construction, amenities (air conditioning, cathedral ceilings and skylights, separate dining rooms, walk-in closets), or proximity to campus or the Pearl Street Mall, and he did not know if his comparable properties had the amenities reported by Petitioner.

Respondent's market condition adjustments were based on a five-year study concluding to value increases graphed by months. He 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).

Mr. Martinez discussed Petitioner's comparison of 1155 Marine Street, describing it as nearly four times as large and, therefore, not comparable. He also noted that Mr. Simon failed to time-trend it to June 30, 2016. In comparing it to the subject and applying adjustments used in his own appraisal, he concluded to a value of \$14,612,845.

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 is persuaded that the subject's six small efficiency floor plans and lack of air conditioning likely impact sale price and rents. However, Petitioner failed to present any market data with which the Board could further adjust Respondent's sales. Further, while Petitioner's testimony about a location near campus and the Pearl Street Mall suggests that location premiums might be appropriate, Petitioner provided no market data to support adjustments. The Board finds that adjustments for these features would not lower Respondent's appraised value below the assigned value.

**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).

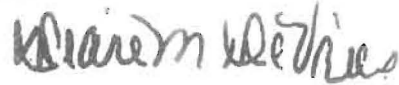
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

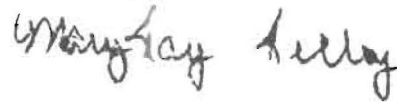
Section 39-8-108(2), C.R.S.

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

**BOARD OF ASSESSMENT APPEALS**




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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.



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Milla Lishchuk

