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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WINSTON HERITAGE PARTNERS II, L.P.,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 47912</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on May 5, 2008, Debra A. Baumbach, Karen E. Hart, and MaryKay Kelley presiding. Donald L. Koch appeared pro se for Petitioner. Respondent was represented by Anthony J. DiCola, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**380 Pioneer Trail, Fraser, Colorado
(Grand County Schedule No. R300110)**

The subject property is a custom home built in 2002 on a 0.831 acre view site in the Rendezvous subdivision near the Winter Park Ski Area. Total square footage is 3,703 per Petitioner and 3,518 per Respondent. Respondent assigned a value of \$1,630,600.00. Petitioner is requesting a value of \$1,240,000.00.

Based on the market approach, Petitioner presented an indicated value of \$1,240,000.00 for the subject property. Petitioner presented three comparable sales ranging in sales price from \$895,000.00 to \$1,330,000.00. All three levels were considered prime living space and combined in the appraisal. After adjustments were made, the sales ranged from \$1,129,700.00 to \$1,245,500.00.

Based on the market approach, Respondent presented an indicated value of \$1,580,000.00 for the subject property. Respondent presented four comparable sales ranging in sales price from

\$1,330,000.00 to \$1,595,000.00. Respondent presented the walk-out basement separately in the appraisal. After adjustments were made, the sales ranged from \$1,473,900.00 to \$1,654,400.00.

The following is a review of significant items within the parties' market approaches followed by a recalculated approach.

Time Adjustments

Respondent's appraiser applied a time adjustment of 0.56% per month based on a multiple regression analysis and a double-sale comparison for three properties with increases from 8.64% to 21.16% per year.

Petitioner's appraiser, while not denying appreciation in the custom home market, stated that it was difficult to quantify reliable adjustments.

Petitioner's appraiser did not provide any market data or support for her opinion. Respondent's analysis was based on single-family residential sales in the Winter Park Area that likely included many sub-markets and other housing types, and the double sales analysis did not reflect any custom home sales. The Board, while not thoroughly convinced that Respondent's adjustment was supported, is convinced that appreciation occurred and uses 0.56% in the recalculation.

Site/View

Petitioner's appraiser considered lot sizes for all comparable sales to be similar to the subject and made no adjustments. Adjustments were applied to all three sales for superior or inferior views.

Respondent made site adjustments to two comparable sales based on comparison of their actual land values with the subject's actual land value. No adjustments were made for views, all were considered equal to the subject.

The Board has applied both parties' adjustments within their respective appraisals in the recalculated grid and agrees with Petitioner's view adjustment for the shared sale (150 Arrowhead Way), which looks onto Winter Park ski runs.

Square Footage

Petitioner's appraiser combined all levels (adjusted at \$50.00 per square foot) to reflect the market perception that all are prime living.

Respondent's appraiser presented main and upper levels as prime living space (adjusted at \$75.00 per square foot) and lower levels as basements (adjusted at \$45.00 per square foot finished and \$30.00 unfinished) but without breaking out the latter.

Either method is considered acceptable appraisal practice. Petitioner's sales cannot be converted to Respondent's method, as lower level square footage is unknown. Square footage of

Respondent's sales can be totaled, but some lower levels have unfinished areas that have not been identified and which should not be included in finished-area adjustments. In addition, the shared sale was measured by Petitioner's appraiser, and the square footage breakdown is not available. Because breaking apart the total square footage of Petitioner's sales is impossible, total square footage is used by the Board in the recalculation of the market approach.

Miscellaneous

Garages, fireplaces, room count, and porches/patios/decks were adjusted differently by the parties. The Board has taken all opinions into account in the recalculation.

Shared Comparable Sale (150 Arrowhead Way)

The two appraisals reflect the following discrepancies and opinions: time adjustment (+\$113,100 per Respondent, none per Petitioner); lot size adjustment (+\$96,000 per Respondent, none per Petitioner); view adjustment (none per Respondent, -\$50,000 per Petitioner); square footage (3,784 per Respondent, 3,906 based on prior measurement by Petitioner); personal property adjustments (-\$66,200 per Respondent, -\$50,000 per Petitioner).

Recalculated Market Approach

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007. A recalculated market approach includes four comparable sales, two of Respondent's sales within the subject subdivision and two of Petitioner's sales, one being the shared sale. Respondent's Sale 4 was not used due to the large adjustments and its location in a golf course community. Petitioner's Sale 3 was not used because of its considerably lower sales price. Petitioner's square footage was used for the subject and the shared sale, because personal measurement is considered more reliable than square footage given to the county prior to changes by the builder.

| | Subject | 129 Mills | | 150 Arrowhead | | 926 Pioneer | | 310 Moose | |
|-------------|----------|-------------|---------|---------------|---------|-------------|---------|--------------|--------|
| SP | | 1,450,000 | | 1,330,000 | | 1,595,000 | | 1,175,000 | |
| TASP | | 1,590,700 | | 1,443,100 | | 1,666,800 | | 1,234,000 | |
| Site/View | .831/Pan | 1.22/Pan | | .743/Ski Area | -50,000 | 1.025/Pan | | .98/Inferior | 75,000 |
| Sq Ft | 3,703 | 5,204 | -75,000 | 3,906 | -10,150 | 4,177 | -23,700 | 3,750 | |
| F/P | 3 | 2 | 5,000 | 2 | 5,000 | 1 | 10,000 | 1 | 10,000 |
| PP | None | None | | Furnished | -50,000 | None | | None | |
| Adjusted SP | | \$1,520,700 | | \$1,337,950 | | \$1,653,100 | | \$1,319,000 | |

Adjusted sale prices range from \$1,319,000.00 to \$1,653,100.00. The range is wide, and the Board was not provided information about interior features and upgrades. The Board finds the indicated value in the middle of the range. The Board concluded that the 2007 actual value of the subject property should be reduced to \$1,450,000.00

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$1,450,000.00.

The Grand County Assessor is directed to change his records accordingly.

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 Colorado Revised Statutes (“CRS”) section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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 CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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.

Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 4th day of June 2008.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Karen E. Hart
Karen E. Hart

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

JUN 04 2008

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

Heather Heinlein
Heather Heinlein

