

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>IRA J. KOWAL AND JOELLYN T. DUESBERRY,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48155</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 21, 2008 Diane M. DeVries and Debra A. Baumbach presiding. Ira J. Kowal appeared pro se for Petitioners. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2800 East Willamette Lane, Greenwood Village, Colorado
(Arapahoe County Schedule No. 2077-13-2-02-033)**

The subject property is a wood-frame, two-story residence, built in 1963. There are three bedrooms and three bathrooms with 2,802 square feet of above grade living area. There is a 760-square-foot basement with no finish. The lot area is comprised of 3.66 acres, located in the city of Greenwood Village.

The subject property is affected by a permanent easement driveway running through the property. The driveway easement separates a little more than an acre from the rest of the property. The subject also has an underground tank and an above ground gas pump that are not used and have been there since the purchase in 1986.

Based on the market approach, Petitioners presented an indicated value range of \$1,400,000.00 to \$1,500,000.00.

Mr. Kowal testified regarding several sales that he was aware of that occurred within his immediate neighborhood during the base period. The first sale is located adjacent to the subject at 3010 Willamette Lane, and sold for \$1,596,000.00. The sale included a deep well and was considered to be in good condition. The second sale, located at 3011 Willamette Lane, sold for \$2,456,000.00 and included a 5-acre lot that was then subdivided into two separate parcels. The third sale is located around the corner from the subject at 5600 South Steele Street and sold for \$1,460,000.00. This sale is situated on a 2.5-acre site and included a deep well and city water. Petitioners made no adjustments to the sales.

Mr. Kowal testified that Respondent overvalued the subject property and overlooked the sales that were available on the subject's street. The subject property is valued much higher than the other sales within the area and Respondent did not consider the adverse factors affecting the subject property in the valuation process.

Respondent considered the acreage to be excess land and not surplus land, as excess land can be subdivided. Petitioners contend the subject's 3.66 acres should be considered surplus land as it cannot be subdivided and is affected by adverse factors.

Petitioners are requesting a 2007 actual value range of \$1,400,000.00 to \$1,500,000.00 for the subject property.

Respondent presented an indicated value of \$1,877,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$524,900.00 to \$2,600,000.00 and in size from 1,879 to 4,846 square feet. After adjustments were made, the sales ranged from \$1,657,530.00 to \$2,522,120.00.

Respondent's witness, Ms. Merry Fix, Certified Residential Appraiser with Arapahoe County Assessor's Office, testified there was an onsite inspection performed of the subject property. The sales chosen were based on the location, style, quality, and market appeal. All of the sales were adjusted for differences in physical characteristics and adjustments were made for all adverse factors affecting the subject.

Ms. Fix testified that the vacant land sales in the area support an indicated value of \$500,000.00 per acre. An adjustment of \$125,000.00 was applied for the adverse factors for an indicated land value of \$1,542,600.00.

Respondent did not consider the sales addressed by Petitioners to be suitable for comparison based on information included in the TD-1000 and sales information.

Respondent assigned an actual value of \$ 2,144,000.00 to the subject property for tax year 2007, but is recommending a reduction in value to \$1,877,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2007.

Respondent relied on three comparable sales within the subject's immediate market area. Adjustments were made for all differences in physical characteristics. An adjustment was applied for the gas tank and the permanent easement.

The Board gave little weight to Petitioners' sales as no data was provided to determine what adjustments would be warranted to conclude a value. Additionally, Petitioners did not provide the Board with sufficient evidence to show that Respondent's adjustments for factors affecting the subject were incorrect.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$1,877,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$1,877,000.00.

The Arapahoe 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 CRS § 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 § 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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 18th day of December 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

DEC 18 2008

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

Heather Flannery

Heather Flannery

