

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 48176 &
50446**

Petitioner:

4000 EAST BELLEVIEW LLC,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 4, 2008, Karen E. Hart and Sondra W. Mercier presiding. Petitioner was represented by Arthur A. Hundhausen, Esq. Respondent was represented by George Rosenberg, Esq. and Brenna Meng, Esq. Petitioner is protesting the 2007 and 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

4000 East Belleview Avenue, Greenwood Village, Colorado

Arapahoe County Schedule No.	Description
2007-13-1-01-014	15.00 acres
2007-13-1-01-015	2.720 acres with residence
2007-13-1-01-017	4.750 acres
2007-13-1-01-052	0.158 acres with vacated road
2007-13-1-02-001	4.510 acres
2007-13-1-02-002	4.460 acres

The subject includes six parcels with a total of 31.598 acres. A 4,817 square foot residence is located on the 2.72 acre parcel. The residence was built in 1939 and significantly renovated in

1991. The subject is assessed as one residential site. The Highline Canal runs through the subject property. Schedule Nos. 2007-13-1-01-015, -017, -052 and 2007-13-1-02-001, -002 are generally located north of the canal; Schedule No. 2007-13-1-01-014 is located south of the canal.

Based on the market approach, Petitioner presented an indicated value of \$4,000,000.00 for the subject property.

Petitioner contends that the most reliable indication of value is the sale of the subject on February 28, 2006. That transaction was between the Estate of Kim R. Magness (Seller) and the Kim Magness Irrevocable Trust Created Under Agreement Creating the Magness Family Irrevocable Trust Dated March 29, 1996 (Buyer). The purchase price was based on an appraisal, which was presented as Petitioner's Exhibit G.

The appraisal analyzed the subject as two individual residential parcels. The "North" parcel is identified as 16.523 acres on the north side of the Highline Canal. The "South" parcel is identified as 15.6147 acres on the south side of the Highline Canal. The residence, which is located on the "North" site was considered a "tear down" and given no value. Six comparable sales of vacant sites ranging in sales price from \$855,000.00 to \$6,000,000.00 and in size from 4.617 to 20.0 acres were included in the sales comparison approach. After adjustments for time, the comparables ranged from \$997,443.00 to \$6,699,720.00. The appraisal concluded to a value of \$3,000,000.00 for the "North" parcel, relying on Sales 1, 2, and 3 which ranged in price from \$1,663,584.00 to \$3,977,820.00. The appraisal concluded to a value of \$1,000,000.00 for the "South" parcel, finding Sale 6 with a sales price of \$997,443.00 most comparable.

Petitioner's witness further testified that the subject had limited development potential. Factors limiting development include lack of access particularly to the "South" parcel, lack of sewer and water services and limited subdivision potential due to zoning and neighborhood influences.

Petitioner is requesting a 2007 and 2008 actual value of \$4,000,000.00 for the subject property.

Respondent presented an indicated value of \$10,458,250.00 for the six subject properties combined based on the market approach. Respondent valued the parcels under three separate categories. The three northern parcels, identified as "Group A" were valued as individual single family development sites, ranging in size from 4.460 to 4.750 acres. The residence and vacated road were valued together as "Group B." The larger 15 acre parcel located south of the Highline Canal was identified as "Group C."

For comparison with Group A, Respondent presented three comparable sales ranging in sales price from \$1,450,000.00 to \$2,700,000.00 and in size from 3.98 to 5.42 acres. These sales indicated a range in value of \$8.36 to \$11.44 per square foot with a mean of \$9.81. After adjustments were made, the sales ranged from \$6.69 to \$9.15 per square foot with a mean of \$8.01. Respondent concluded to a value of \$8.00 per square foot for each of the Group A parcels.

For comparison with the residence, identified as Group B, Respondent presented three comparable sales ranging in sales price from \$1,511,390.00 to \$1,640,000.00. The comparable units

ranged in size from 4,033 to 5,157 square feet. They were completed between 1961 and 1988. Two of the comparables had been renovated. After adjustments were made, the sales ranged from \$1,848,113.00 to \$2,552,217.00. Respondent valued the residence at \$1,800,000.00. A value of \$250.00 was placed on the vacated road.

For comparison with the larger southern parcel, identified as Group C, Respondent presented three comparable sales ranging in sales price from \$3,250,000.00 to \$6,000,000.00 and in size from 9.6 to 20.0 acres. Prior to adjustment, the sales indicated a range in value of \$3.90 to \$7.77 per square foot with a mean of \$6.18. After adjustments were made, the sales ranged from \$4.88 to \$8.16 per square foot, with a mean of \$6.76. Respondent concluded to a value of \$6.50 per square foot. From this amount Respondent deducted an estimated cost to gain legal right of way of \$370,000.00. The concluded value for Group C was \$3,877,100.00.

Respondent assigned actual values to the subject properties for tax years 2007 and 2008 as follows:

Parcel	Value Assigned
2077-13-1-02-001	\$1,437,350
2077-13-1-02-002	\$1,446,913
2077-13-1-01-014	\$3,656,250
2077-13-1-01-015	\$1,690,500
2077-13-1-01-017	\$1,492,813
2077-13-1-01-052	\$250
Total of all Parcels	\$9,724,076

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2007 and 2008.

The Board gives little reliance on the actual sale of the subject property. The property was not placed on the open market; therefore, the sale is not considered representative of market value. The Board has however, given consideration to the appraisal used to set the value of the subject at the time of sale.

The subject is currently assessed as one combined residential property, not separately assessed as a residential unit with five individual vacant parcels. Both Petitioner and Respondent valued the subject with varying levels of development potential for the five vacant parcels.

The Board was not convinced that the property should be valued as development land. “[R]easonable future use is relevant to a property’s current market value. . . . [S]peculative future uses cannot be considered in determining present market value.” *Bd. of Assessment Appeals v. Colorado Arlberg Club*, 762 P.2d 146, 153-54 (Colo. 1988). There was inconclusive evidence as to when or if development could occur. The Board was convinced that development of the individual parcels was highly speculative, with significant issues involving access and utilities. Therefore, the Board finds that valuation under the current use, consistent with the current assessment as one residential site, is appropriate.

Petitioner’s value most closely represented the value of the subject land under its current use; however, Petitioner incorrectly gave no value to the existing improvements. Petitioner concluded to a value of \$3,000,000.00 for the northern 16.523 acres, equal to \$4.17 on a per square foot basis. The southern 15.614 acre portion of the site was valued at \$1,000,000.00, equal to \$1.47 per square foot.

The Board agrees with Respondent that the residence is within the typical range of houses in the area, has extensive renovations, and is in above average condition; therefore the residence should not be considered a “tear down.” Respondent placed the greatest reliance on Comparable Sale 1, indicating a value of \$1,800,000.00 for the improved portion of the subject. This included an adjustment of \$245,000.00 for a 0.57 acre difference in size between the subject and Sale 1. The Board finds this level of adjustment excessive and unsupported by any of the data provided by Petitioner or Respondent. Eliminating the adjustment for site size, the adjusted value for Sale 1 is calculated as \$1,603,113.00, rounded to \$1,600,000.00. The remainder of the “North” site is valued at \$4.17 per square foot.

The Board concludes that the 2007 and 2008 actual values of the subject property should be reduced as follows:

Parcel	Value Assigned
2077-13-1-02-001	\$810,000
2077-13-1-02-002	\$820,000
2077-13-1-01-014	\$1,000,000
2077-13-1-01-015	\$1,600,000
2077-13-1-01-017	\$860,000
2077-13-1-01-052	\$250
Total of all Parcels	\$5,090,250

ORDER:

Respondent is ordered to reduce the 2007 and 2008 actual value of the subject property to \$5,090,250.00.

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 27th day of January 2009.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

This decision was put on the record

JAN 27 2009



Sondra W. Mercier

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



Heather Flannery



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Petitioner:

4000 EAST BELLEVIEW LLC,

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ARAPAHOE COUNTY BOARD OF EQUALIZATION.

AMENDMENT TO ORDER

THE BOARD OF ASSESSMENT APPEALS hereby amends its January 27, 2009 Order in the above-captioned appeal to correct the schedule numbers listed on pages 1 and 2.

On page 1 of the January 27, 2009 Order, the subject property should be described as follows:

4000 East Belleview Avenue, Greenwood Village, Colorado

Arapahoe County Schedule No.	Description
2077-13-1-01-014	15.00 acres
2077-13-1-01-015	2.720 acres with residence
2077-13-1-01-017	4.750 acres
2077-13-1-01-052	0.158 acres with vacated road
2077-13-1-02-001	4.510 acres
2077-13-1-02-002	4.460 acres

On page 2 of the January 27, 2009 Order, the first paragraph should read:

The subject includes six parcels with a total of 31.598 acres. A 4,817 square foot residence is located on the 2.72 acre parcel. The residence was built in 1939 and significantly renovated in 1991. The subject is assessed as one residential site. The Highline Canal runs through the subject property. Schedule Nos. 2077-13-1-01-015, -017, -052 and 2077-13-1-02-001, -002 are generally located north of the canal; Schedule No. 2077-13-1-01-014 is located south of the canal.

In all other respects, the January 27, 2009 Order shall remain in full force and effect.

DATED/MAILED this 4th day of March 2009.

This amendment was put on the record

MAR 0 4 2009

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

HA flly
Heather Flannery

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Sondra W Mercier
Sondra W. Mercier

