

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LARRY G. AND MONICA E. ALLEN</p> <p>v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48847</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 7, 2008, Karen E. Hart and James R. Meurer presiding. Mr. Larry G. Allen appeared pro se on behalf of Petitioners. Respondent was represented by Teresa Williams, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**94 Monte Vista Drive, Pagosa Springs, Colorado
(Archuleta County Parcel No. 558336208005)**

The subject is a single-family detached house located in the Pagosa Highland Estates subdivision in Pagosa Springs. The house is ranch-style and was constructed in 2004. It is frame construction with Hardiplank exterior and a metal roof. Living area square footage is 1,516 square feet and there are 3 bedrooms and 1¾ baths. There is a 608-square-foot, two-car attached garage. Lot size is 0.38 acres.

Based on an equalization analysis and market approach, Petitioners presented an indicated value of \$183,284.00 for the subject property.

Petitioners provided a sales ratio analysis of 35 homes that sold in the Pagosa Highland Estates subdivision during the base period to support their value of \$183,284.00. Petitioners compared the sales prices to the values assigned to those homes by the Archuleta County Assessor. Mr. Allen testified that the basis of the appeal was that the assessment of these sales fell outside of the state specifications for sales ratios. Petitioners also presented an equalization argument, comparing the assessed values of the 35 properties to the value assigned to the subject property.

“Our state constitution and statutes make clear that individual assessments are based upon a property’s actual value and that actual value may be determined using a market approach, which considers sales of similar properties.” *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). The Board gave little weight to the sales ratio analysis and equalization argument presented by Petitioners. The Board can consider an equalization argument if evidence or testimony is presented which shows the Board that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued by the assessor. Since that evidence and testimony was not presented, the Board gave little weight to the equalization argument presented by Petitioners. However, Petitioners’ sales ratio data does appear to indicate a *possible* inequity in assessment within the subject property subdivision, which the Board has no authority to pursue.

Petitioners presented ten comparable sales which sold in the Pagosa Highland subdivision during the base period ranging in sales price from \$148,285.00 to \$300,000.00. Petitioners made no adjustments to these sales, and indicated a value for the subject property based on a median price per square foot of the ten sales. The Board gave little weight to Petitioners’ indicated value as this was not proper appraisal methodology. Petitioners did not provide the Board with enough details of these sales (i.e. location and amenities) in order for the Board to make adjustments to the sales.

Mr. Allen further testified that Respondent’s adjustments to their sales were not supportable and that there were discrepancies in the square footages of a number of the comparables reported by Respondent. Mr. Allen does not believe Respondent’s Comparable Sale 4 is a qualified sale and should not have been used in Respondent’s analysis.

Petitioners are requesting a 2007 actual value of \$183,284.00 for the subject property.

Respondent’s witness, Keren L. Prior, the Archuleta County Assessor, testified that the square footage discrepancies on Petitioners’ Exhibits 3 and 4 are a result of the Assessor’s CAMA (Computer Assisted Mass Appraisal) system calculations involving an adjustment of square footage to match a base rate valuation. She testified that the actual square footage was used in Respondent’s Exhibit A and that the correct square footage is available for public use when requested. The Board believes a property owner would assume the supplied data was correct and would not know to request the additional information. The Board finds the sales information supplied to Petitioners is confusing regarding the actual square footage of the properties listed.

Respondent presented an indicated value of \$240,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$195,000.00 to \$305,000.00 and in size from 1,320 to 1,600 square feet. After adjustments were made, the sales ranged from \$221,900.00 to \$280,000.00. Major adjustments to Respondent's comparables were for date of sale (time), site size, view, quality of construction, age, living area square footage, garage, and fireplace. Respondent's time adjustments were based on 0.25% per month.

Respondent's witness, Patrick J. Miklos, a Licensed Appraiser with the Archuleta County Assessor's office testified that his time adjustment came from Colorado Division of Property Taxation published manual examples and classroom materials and not from a sales data study. He testified that he had personal knowledge regarding Comparable Sale 4, which is why he included it in his analysis even though Assessor records showed the sale was unqualified. The Board notes that the exclusion of this sale from Mr. Miklos' analysis would not change the indicated value of the subject property.

Respondent assigned an actual value of \$216,856.00 to the subject property for tax year 2007.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007.

The Board concludes that Respondent's market approach accurately reflects value for the subject. The comparables used by Respondent are located in the subject subdivision and are reflective of the market. The Board agrees that the majority of the adjustments to the comparable sales are supportable. However, according to Respondent's witness, the time adjustments came from statewide published materials rather than actual sales data from Archuleta County; therefore the Board gives the time adjustments no weight. After removing the time adjustments the indicated range of Respondent's comparable sales is \$215,600.00 to \$280,000.00. The adjusted range supports Respondent's 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 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 10th day of December, 2008.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

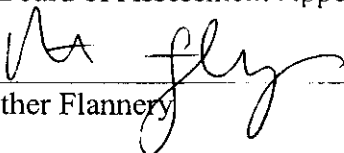


James R. Meurer

This decision was put on the record

DEC 09 2008

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



Heather Flannery

