

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THOMAS J. AND ALYSON M. FRITZ,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49643</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 10, 2009, Karen E. Hart and MaryKay Kelley presiding. Thomas J. Fritz appeared pro se for Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**10903 Big Sky Trail, Elbert, Colorado
(Douglas County Schedule No. R0428725)**

The subject property is a 2,493-square-foot one-story residence with unfinished walkout basement and three-car garage built in 2004 on 35.389 acres southeast of Castle Rock. The property is one of eighteen lots in the gated Sweetwater Ranch Subdivision.

Classification of the subject land is agricultural. Neither classification nor value of the land is disputed. The parties agree that the actual value of the agriculturally-classified land is \$1,026.00.

Respondent assigned an actual value of \$484,139.00 for tax year 2007 but is recommending a reduction to \$455,000.00 (\$1,026.00 for land and \$453,974.00 for improvements). Petitioners are requesting a value of \$380,000.00 (\$1,026.00 for land and \$378,974.00 for improvements).

Petitioners purchased the subject land for \$202,000.00 and contracted for construction of the residence at \$370,000.00 in July of 2004. Construction was completed in December of 2004.

Petitioners argued that the total actual value of the subject property experienced a 34% increase from tax year 2006 (\$360,285.00) to tax year 2007 (\$484,139.00), excessive when compared to the 3.1% time adjustment applied to comparable sales on the Assessor's website, and the 3.1% overall increase in value for economic area 5 reported on the Assessor's website.

Petitioners argued that amended covenants by the developer dated October 22, 2004 were illegally drafted and affected water rights and building restrictions. A lawsuit was filed by the subdivision's property owners, and the matter was subsequently resolved. Petitioners argued that these issues clouded titles during the base period, affected marketing, impacted values, and yet were not addressed in Respondent's appraisal.

Based on the market approach, Petitioners presented an indicated value of \$448,906.00 for the subject property. Petitioners presented three comparable sales with adjustments for time trending, acreage, outbuildings, fencing, and mileage to towns, concluding to an indicated value of \$448,906.00 based on averaging adjusted improvement values of the three sales.

Petitioners' requested value of \$380,000.00 is based on a 6% increase from the 2006 actual value of \$360,285.00, an amount Petitioners considered appropriate.

Respondent presented an indicated total value of \$455,000.00 for the subject property based on the market approach. The witness presented seven comparable sales ranging in sales price from \$541,000.00 to \$915,000.00. Land values were deleted, actual value of the subject's agriculturally-classified land was added (\$1,026.00), and miscellaneous adjustments were made, after which the adjusted sales prices ranged from \$455,750.00 to \$510,897.00. Respondent's witness reconciled at the lower end of the range so as to address the potential impact of the covenants dispute and related marketability; no dollar market adjustment could be determined.

Respondent's witness made no adjustments for the subject's gated community, lack of trees, lack of fencing, and absence of a walkway to the front door and concrete pad outside the garage. He testified that he could not delineate adjustments from the marketplace for these items and did not consider them to have any significant overall impact. He did not consider differences in acreages to affect value or require adjustments, the range being 35.0 to 43.0 acres.

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

The Board concurs with Respondent's recommended reduction to \$455,000.00. The Board finds that Respondent's seven comparable sales, which include Petitioners' sales, are representative of the subject property. The Board concludes that Respondent's adjustments were reasonable with the exception of a possible adjustment for the subject's lack of trees. The Board agrees with Petitioners that the covenants and lawsuit issues may have impacted marketability and value, acknowledges the difficulty in identifying a dollar impact within the marketplace, and concurs with Respondent's reconciliation at the lower end of the adjusted range to address these concerns as well as the lack of trees.

The Board also notes that Respondent's recommended value of \$455,000.00 for the subject improvement includes the \$1,026.00 actual value of the agriculturally-classified land but does not reflect market value of the land.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$455,000.00.

The Douglas County Assessor is directed to change his/her 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 3rd day of April 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

APR 03 2009

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

H. Flannery
Heather Flannery

