

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOYCE FAST,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49687</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 22, 2009, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by James Burgess, Esq. Petitioner is protesting the 2007 actual value of the subject property.

On May 26, 2009 the Board received a letter from Petitioner, dated May 22, 2009, requesting additional information be considered by the Board. The Board received Respondent's Motion to Strike Petitioner's letter on May 28, 2009. On June 12, 2009 the Board received Petitioner's letter of apology dated June 12, 2009. The Board grants Respondent's Motion to Strike; the Board gives no consideration to Petitioner's letter dated May 22, 2009.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3237 Sun Ridge Lane, Evergreen, Colorado
(Jefferson County Schedule No. 401533)**

The subject property is an attached two-story residence with 1,529 square feet and two-car garage built in 1984. It is located in the Sun Ridge Subdivision in Kittredge, which is comprised of duplex-styled homes.

Respondent assigned an actual value of \$229,080.00 for tax year 2007. Petitioner is requesting a value of \$175,770.00.

Petitioner is appealing the 21% increase from the 2006 actual value of \$189,500.00. Ms. Fast presented an equalization argument, comparing her 2007 actual value of \$229,080.00 to actual values of Respondent's four comparable sales: \$168,280.00 (11% reduction from the 2006 value of \$188,310.00); \$192,980.00 (12% reduction from the 2006 value of \$209,710.00); \$176,380.00 (12% reduction from the 2006 value of \$201,310.00); and \$170,980.00 (11% reduction from the 2006 value of \$190,510.00). Noting that actual values decreased between 10% and 12% from 2006 to 2007, her requested value of \$175,770.00 is based on a similar reduction.

“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 equalization argument presented by Petitioner. 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 Petitioner. However, Petitioner's data does appear to indicate a possible inequity in assessment within the subject property subdivision, which the Board has no authority to pursue.

Respondent presented an indicated value of \$239,500.00 for the subject property based on the market approach. Respondent's witness, Mr. Stephen C. DeBell, presented four comparable sales, all located within the subject subdivision, ranging in sales price from \$194,000.00 to \$232,500.00 and in size from 1,083 to 1,290 square feet. After adjustments were made, the sales ranged from \$230,250.00 to \$253,800.00.

Petitioner argued that Sale 1 has a second story loft reflected in Respondent's photograph and that square footage is actually 1,402. The Board is not convinced that a second floor loft exists, evidenced by the roofline in comparison with the roofline in the attached unit.

Petitioner argued that Sale 2 should have carried adjustments for its remodeled kitchen and updated bath per its marketing advertisement. While the Board agrees that remodeling can carry value in the market place, the word “remodeled” alone does not provide enough detail to justify an adjustment. Petitioner also argued that Respondent's \$1,900.00 adjustment for a wood burning stove versus the subject's fireplace was excessive and that the typical buyer does not recognize the difference. While the Board considers this adjustment subjective and recognizes a difference of opinion, deletion of the \$1,900.00 would not impact the range of adjusted values or the final adjusted value.

Petitioner referred to marketing flyers for Sale 3, contending that the following features warranted an adjustment: professional remodeling, gourmet kitchen with granite tile, stainless steel appliances, professional gas stove, new bay windows, built-in antique desk, and

hardwood/Berber/tile floors. While the Board agrees that professional remodeling can add value, neither the sales price nor the adjusted sales price reflects a remodeling premium.

Petitioner contended that the square footages for Sales 3 and 4 (same floor plan) were incorrectly stated in Respondent's market grid and should read 1,329 square feet for each according to Sale 3's marketing flyers. The Board notes that the size differences are 39 and 71 square feet, respectively, and that the range of values would be minimally impacted and the final adjusted value would not be affected.

Petitioner argued that adjustments should have been made to Respondent's comparable sales for professional landscaping and fencing in comparison to the subject's basic landscaping and lack of fencing. The Board agrees that buyers recognize and respond to condition and overall appearance and that, while individual items may not carry adjustments, overall appeal often equates to higher price and value. The Board was not convinced by photographs that landscaping adjustments were warranted. An adjustment for Sale 2's wrought iron fencing and stone mailbox would not have impacted the final adjusted value.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007. The Board recommends a review by the Assessor's office of the subdivision due to the inequity of assigned values.

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 18th day of June 2009.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

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

Heather Flannery
Heather Flannery

