

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PHILL D. AND CARYLJO GREENBLATT,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 51573</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 5, 2010, Louesa Maricle and Sondra W. Mercier presiding. Petitioner, Phill D. Greenblatt, appeared pro se. Respondent was represented by George Rosenberg, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax years 2007 and 2008.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2 Cantitoe Lane, Englewood, Colorado
(Arapahoe County Schedule No. 2075-07-1-07-003)**

The subject property consists of a 4,607 square foot single-family residence, barn, utility shed, swimming pool, pool house and tennis courts, located on a 7.01-acre site.

Petitioners are requesting an actual value of \$3,426,610.00 for the subject property for tax years 2007 and 2008.

Petitioners contend that the valuation of land for the subject is excessive. Petitioners presented two comparable sales. This included one improved sale located at 4645 South Holly Street which sold for \$3,850,000.00 in September 2005; and one land sale located at 1 Tenaya Lane which sold for \$1,950,000.00 in July 2002. Petitioners made no adjustments to these sales.

Petitioners presented assessed land value information for the 13 properties located in the Cantitoe Subdivision, including the subject. These properties indicated an average assessed land value of \$3,078,838.00 total, equal to an average of \$530,905.00 per acre. Petitioners contend that the typical site size in the subdivision is 5 acres and that the additional 2.01-acre portion of the site is excess land, with contributory value of only 10% to 25% of the per acre value assigned to the 5-acre portion of the site. Petitioners contend that there is little contributory value to the subject improvements.

Respondent presented a value of \$5,300,000.00 for the subject property based on the market approach.

Respondent presented three improved comparable sales ranging in sale price from \$3,850,000.00 to \$12,350,000.00 and in size from 5,356 to 8,133 square feet. Respondent applied adjustments for date of sale, design, construction type, construction quality, effective age, gross living area, bathroom count, basement, garage, fireplace, heating and air conditioning, patio area, tennis courts, pool and barn. Large adjustments for site size were also made. After adjustments were made, the sales ranged from \$4,730,125.00 to \$6,953,134.00. Respondent's witness, Ms. Merry Fix, presented sales data indicating a value of \$600,000.00 per acre, with excess land valued at 90% of that value.

Respondent's witness testified that she placed the greatest reliance on Comparable Sale 1, 4645 South Holly Street, with an adjusted value of \$5,075,685.00.

Respondent assigned an actual value of \$5,621,400.00 to the subject property for tax years 2007 and 2008. Respondent is requesting the Board uphold a value of \$5,300,000.00 for tax years 2007 and 2008.

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

Respondent relied on the market approach to value the subject lot. "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).

Petitioners relied on an equalization argument to support Petitioners' requested reduction in land value. 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. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioners. While Petitioners contend that the land value used by Respondent was incorrect, Petitioners provided no actual sales information to support an alternative adjustment.

Respondent presented three comparable sales in the market approach, including the sale of 4645 South Holly Street (Respondent's Sale 1) also presented by Petitioners. Respondent's Sales 2

and 3 required sizable downward adjustments of 46% and 48%; therefore, while they are supportive, the Board does not believe they represent a reliable indication of the value of the subject. Based on testimony, the Board finds Respondent's \$15,000.00 upward adjustment to Sale 1 for effective age to be unsupported. Removing this adjustment results in an adjusted sales price of \$5,060,685.00 for Respondent's Sale 1.

The Board concludes that the actual value of the subject property should be reduced to \$5,060,000.00 for tax years 2007 and 2008.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners based on an actual value of \$5,060,000.00 for the subject property for tax years 2007 and 2008.

The Arapahoe 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 Section 24-4-106(11), C.R.S. (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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (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).

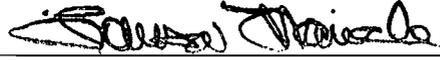
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

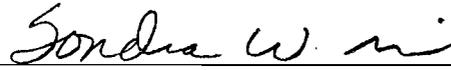
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 21st day of January 2010.

BOARD OF ASSESSMENT APPEALS



Louesa Maricle



Sondra W. Mercier

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



Heather Flarnery

