

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN WIX,</p> <p>v.</p> <p>Respondent:</p> <p>RIO BLANCO COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 51581</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 24, 2010, Karen E. Hart and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Kent A. Borchard, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2008.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**16064 County Road 8, Meeker, Colorado
(Rio Blanco County Schedule No. M301025)**

The subject property is a 1994 manufactured home that has 1,876 square feet of living area with a 1,629 square foot basement. No land is included in this appeal. The subject home was rented for three months in 2008 and then moved from Sleepy Cat Guest Ranch in the White River Valley.

Based on the market approach, Petitioner’s witness, Harold C. Stover, Certified Residential Appraiser, presented an indicated value of \$135,000.00 for the subject property.

Petitioner presented three comparable sales ranging in sales price from \$115,000.00 to \$175,000.00 and in size from 1,216 to 1,792 square feet. After adjustments, the sales ranged from \$104,600.00 to \$182,260.00. Petitioner’s Comparable Sale 1 is the same as Respondent’s Comparable 4, Petitioner’s Sale 2 is the same as Respondent’s Sale 2, and Petitioner’s Sale 3 is the

same Respondent's Sale 3. Petitioner's witness made adjustments for land, construction quality, room count, gross living area, basement and finish, and garage/carport.

Petitioner is requesting a 2008 actual value of \$135,000.00 for the subject property.

Respondent presented an indicated value of \$175,000.00 for the subject property based on the market approach.

Respondent presented six comparable sales ranging in sales price from \$115,000.00 to \$550,000.00 and in size from 1,216 to 2,190 square feet. After adjustments were made, the sales ranged from \$97,300.00 to \$321,940.00. Respondent placed no weight on Respondent's Comparable 6.

Respondent assigned an actual value of \$204,089.00 to the subject property for tax year 2008.

Respondent is recommending a 2008 actual value of \$175,000.00, applying the residential assessment rate.

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

The adjusted sales prices of Petitioner's comparables ranged from \$104,600.00 to \$182,260.00, while Respondent adjusted these same sales for a price range from \$97,300.00 to \$176,400.00. Each appraiser used their appraiser judgment in making appropriate adjustments. Petitioner's appraiser correlated to a value of \$135,000.00 while Respondent's appraiser added two additional sales and correlated to a value of \$175,000.00.

The Board relies on the three sales common to both parties. The Board gives most weight to both parties' Comparable Sale 3 as it had the least amount of net adjustment. This sale supports Respondent's recommended reduction to \$175,000.00, applying the residential assessment rate.

Although information was presented at the hearing indicating that the value attributable to the basement was prorated, both parties included and adjusted for the basement. Further, the subject property was on a foundation including a finished basement as of the assessment date, January 1, 2008. Therefore, the Board's concluded value includes the full value of the basement.

The Board concludes that the 2008 actual value of the subject property should be reduced to \$175,000.00.

At the end of the hearing Petitioner requested costs pursuant to Section 39-8-109, C.R.S. On July 6, 2010 the Board received Petitioner's letter listing the expenses incurred in his appeal for this matter as well as for Docket Nos. 51966 and 51967; invoices were attached to Petitioner's letter.

The awarding of costs to a petitioner in a proceeding before the Board is currently at issue before the Colorado Supreme Court in *Jefferson County Board of Equalization v. Mark W. Gerganoff, Robin E. McIntosh, and Board of Assessment Appeals*, Case No. 2009SC916. Therefore,

the Board will hold Petitioner's request in abeyance pending the Colorado Supreme Court's decision, and will issue a future ruling on Petitioner's request for costs.

ORDER:

Respondent is ordered to cause an abatement/refund for tax year 2008 using an actual value of the subject property to \$175,000.00 and applying the residential assessment rate.

The Rio Blanco County Assessor is directed to change 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 17 day of September 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

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

Amy Bruins

Amy Bruins

