

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT M. & PATRICIA GAIL SPRENTALL,</p> <p>v.</p> <p>Respondent:</p> <p>OURAY COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51619</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 22, 2010, Diane M. DeVries and Karen E. Hart presiding. Robert M. Sprentall appeared pro se on behalf of Petitioners. Respondent was represented by Mary E. Deganhart, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2850 Aspen Drive, Ridgway, Colorado
(Ouray County Schedule No. R001532)**

The subject property consists of a single family dwelling constructed in 2000 on a 0.6 acre lot. The main level is 1,082 square feet in size. The upper level is in dispute as to whether it should be considered a loft area or a second floor living area.

The subject property is constructed of a combination of log, rock and wood. The main floor includes a great room, master bedroom and bathroom. The walkout basement has two finished rooms and a basement garage.

There is an open log stairway from the main floor to the upper level. The upper level has a lengthwise railing and two dormers. There is an open area that looks down to the first floor. The wall height is 5 foot at the window walls. The bathroom is a fully enclosed room that is located on the north side of the upper level in a dormer area and it has the only closet on the upper level. The

area is used as an office and a bed is moved to this space for an extra bedroom when there is company.

Petitioners believe the upper level should be considered 726 total square feet in size with a 528 square foot loft and 198 square feet of second floor area. Petitioners presented a 2007 stipulation which characterized the upper level as they have requested. There has been no change made to the upper level and Petitioners believe it should remain classified as a loft and not as a second floor.

Petitioners presented two comparable sales ranging in sales price from \$354,000.00 to \$450,000.00 and in size from 1,176 to 1,376 square feet. No adjustments were made to the sales. These are the same sales as Respondent's Comparable Sales 1 and 2.

Petitioners believe the subject property should be valued between \$105.00 and \$118.00 per square foot at 1,965 adjusted square feet plus \$60,000 for the land value.

Petitioners also submitted valuation information for other properties in their subdivision to demonstrate that their property is valued higher than comparable properties on a residence valuation per adjusted square foot basis. The subject property value is \$146.73 per square foot versus other properties ranging from \$104.50 to \$142.02 per square foot.

Mr. Sprentall agreed that Respondent's Comparable Sales 1 and 2 are similar to his property. He testified however that the subject property has higher maintenance costs due to the large deck area and rock materials which need to be replaced.

Petitioners are requesting a 2009 actual value of \$290,000.00 for the subject property, based on \$120.00 per square foot, similar to other property values in the subdivision.

Respondent's witness, Mr. Dennis A. Michaud, a Registered Appraiser with the Ouray County Assessor's office, testified that he inspected the exterior of the subject property in 2007 and 2009. He did not observe any problem with the rock at the time of his 2009 inspection. Mr. Michaud has never been inside the subject property but has looked at the inside through the windows. The subject is located in an area of diverse home types, ranging from modular to custom homes. The subject property is in general above average for the subdivision.

Respondent presented an indicated value of not less than \$380,000.00 for the subject property based on the market approach.

Respondent's witness presented three comparable sales ranging in sales price from \$210,000.00 to \$450,000.00 and in size from 864 to 2,305 total heated, above-grade square feet. After adjustments were made, the sales ranged from \$379,000.00 to \$399,000.00.

Comparable Sale 1 had the largest size lot and required a large adjustment for land size. Comparable Sale 2 is most similar to the subject and was given the most weight in Mr. Michaud's analysis. Comparable Sale 3 is a smaller single-story older home and is the least comparable of the three sales.

Mr. Michaud considers the subject property to be a 1.5 story design of good quality construction. Mr. Michaud referred to living space descriptions on Item 3 of Exhibit 1. A loft area description includes restricted useable living space sometimes with three-foot or shorter knee walls, no plumbing facilities, usually a railing overlooking another living area and uses including a spare sleeping area, office, etcetera. A second floor description includes bedroom, bathroom, and/or other living area and walls at least five feet in height. The dormers of the subject property give full height living space. Therefore Mr. Michaud believes the upper level space is correctly classified as a second floor, consistent with other similar property classifications.

Respondent assigned an actual value of \$348,320.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009.

The subject property's upper level demonstrates characteristics of both loft and second floor designations, leaving the final designation up to the appraiser's judgment. Mr. Michaud testified that his classification of the subject property was consistent with other similar properties. Previous stipulations are not binding. The Board is convinced that the subject property is correctly classified as a 1.5 story design.

Respondent presented three comparable sales, two of which Petitioners also used and agreed were similar to the subject property. The Board finds Respondent's adjustments to be reasonable and Petitioners presented no convincing evidence to show other adjustments would be appropriate. After adjustments, these two sales indicated a subject property value between \$397,000.00 and \$399,000.00, a higher value range than the assigned value of \$348,320.00.

The Board could give little weight to Petitioners' equalization evidence as there was insufficient sales data presented to support whether the assessment comparables were correctly valued.

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 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 of the respondent county, 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).

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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of August 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.

Heather Flannery

Heather Flannery

