

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WINSTON HERITAGE PARTNERS II LIMITED PARTNERSHIP,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51666</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 24, 2010, Louesa Maricle and Sondra W. Mercier presiding. Petitioner was represented by Donald L. Koch, partner. Respondent was represented by Anthony J. DiCola, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**380 Pioneer Trail, Fraser, Colorado
(Grand County Schedule No. R300110)**

The subject is a three bedroom single family home on 0.831 acre, located in the East Mountain Subdivision (aka Rendezvous). The home was completed in 2002. There is discrepancy between the parties as to the square footage.

Based on the market approach, Petitioner’s witness, Ms. Chris A. Braaf, presented an indicated value of \$1,355,000.00 for the subject property.

Ms. Braaf presented six comparable sales ranging in sales price from \$1,140,000.00 to \$2,225,000.00 and in size from 3,746 to 5,946 square feet. Ms. Braaf calculated the square footage of the subject as 3,703. After adjustments were made, the sales ranged from \$1,155,000.00 to \$1,990,300.00. Ms. Braaf testified that she placed the greatest reliance on Sales 1, 2 and 3, with an

adjusted range of \$1,155,000.00 to \$1,538,700.00 and an average of \$1,355,400.00. These three sales were believed to be more similar in size to the subject. Sales 1 and 3 included significant downward adjustments of \$100,000.00 for personal property, as estimated by Ms. Braaf. She contends that Respondent's sales along with Petitioner's Sales 4, 5 and 6 represent sales that are of much larger homes that are not comparable to the subject.

Petitioner contends that Respondent's value is based on an incorrect square footage, does not make adequate adjustment for the below grade topography of the subject, does not reflect the inclusion of a sewer lift station with the subject and that the speculative construction of the subject does not reflect custom construction.

Petitioner is requesting a 2009 actual value of \$1,355,000.00 for the subject property.

Respondent presented an indicated value of \$1,630,000.00 for the subject property based on the market approach.

Respondent's witness, Mr. William W. Wharton, presented six comparable sales ranging in sales price from \$1,140,000.00 to \$2,225,000.00 and in size from 1,881 to 4,283 square feet of above grade living area. Mr. Wharton calculated the above grade square footage of the subject as 2,058, with an additional 1,499 square feet of finished basement space. After adjustments were made, the sales ranged from \$1,282,800.00 to \$1,969,300.00.

Respondent contends that the subject has many special features including three fireplaces, sauna, steam room and views. Mr. Wharton placed the greatest reliance on Sale 1, located proximate to the subject, with an adjusted price of \$1,627,000.00. Mr. Wharton contends that Petitioner's appraiser over-adjusted the value of the personal property included in that sale, making a smaller downward adjustment of \$18,500.00 based on an interview with the grantee.

Respondent assigned an actual value of \$1,614,350.00 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 Board was convinced that the sale of 501 Pioneer Trail (Sale 1 shown by both Petitioner and Respondent) provided the best indication of value for the subject. Petitioner's witness made a significant downward adjustment for personal property that she testified was based solely on her estimate. Respondent made a lower adjustment based on an estimate provided by the grantee in the sale. Under Section 39-13-102(5)(a), C.R.S.:

In determining the amount of consideration paid for the grant or conveyance of residential real property, inclusive of liens, charges, and expenses, the total amount of the sales price to the purchaser shall be deemed to be paid for the grant or conveyance of real property unless evidence of the separate consideration paid for personal property is submitted as shown on the contract of sale or the closing or settlement documents on the grant or conveyance or unless evidence of such separate consideration is shown on the declaration filed pursuant to the provisions of section 39-14-102.

The Board was convinced that Respondent provided more reliable information in support of the deduction for personal property.

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 29th day of June 2010.

BOARD OF ASSESSMENT APPEALS

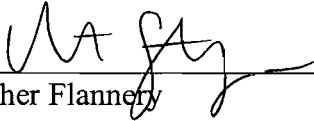


Louesa Maricle



Sondra W. Mercier

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



Heather Flannery

