

| | |
|---|---------------------------------|
| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DR. CHARLES REICH & THOMAS C. SILVER,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 51803</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. Dr. Charles Reich, Petitioner, appeared pro se. Respondent was represented by Anthony J. DiCola, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**41 Forest Trail, Unit #7, Winter Park, Colorado
(Grand County Schedule No. R064080)**

The subject is a 1,578 square foot condominium unit that was completed in 1983. It includes 3 bedrooms, 3 ¼ baths, 2 fireplaces and a 1 car attached garage.

Based on the market approach, Petitioner, Dr. Reich, presented an indicated value of \$381,267.00 for the subject property. Petitioners placed the greatest reliance on the sale of the adjacent unit, addressed as 41 Forest Trail, Unit #6, which sold in February 2007 for \$383,000.00 after adjustment for personal property. No additional sales were presented and no additional adjustments were made to the sale of Unit #6. Dr. Reich contends that Respondent incorrectly gave consideration to the sale of Unit #9, an end unit, which sold for \$420,800.00 after adjustment for personal property in September 2006, with no adjustment for its superior location. Petitioners further note that the adjustments made to those sales presented to the County Board of Equalization (CBOE) varied from those presented to the Board.

Petitioners are requesting a 2009 actual value of \$381,267.00 for the subject property.

Respondent presented an indicated value of \$396,100.00 for the subject property based on the market approach.

Respondent's witness, Rebecca D. Allison, presented four comparable sales ranging in sales price from \$368,800.00 to \$420,800.00 after adjustment for personal property. They ranged in size from 1,344 to 1,578 square feet. After adjustments were made, the sales ranged from \$391,100.00 to \$449,400.00.

Ms. Allison testified that although she did not apply a time adjustment prior to the hearing with the CBOE due to time constraints, it is required by Section 39-1-104 (10.2)(d), C.R.S that "[s]aid level of value shall be adjusted to the final day of the data gathering period." Respondent placed the greatest reliance on the sale of the adjacent unit, #6, with a time adjusted sales price of \$397,900.00.

Respondent assigned an actual value of \$396,100.00 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. Respondent correctly relied on the sale of the adjacent unit #6, which occurred within the base period and required minimal adjustment. While the Board finds that it is understandably confusing for Respondent's witness to present an unadjusted sale at the CBOE hearing and then make time adjustments before the Board, Respondent is required to apply an appropriate time adjustment by statute.

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 8th day of July 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