

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KASTLER FAMILY TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51934</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 23, 2010, MaryKay Kelley and Debra A. Baumbach presiding. Petitioners were represented by Paul A. Kastler, Esq. Respondent was represented by Anthony J. DiCola, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**549 Lake Trail, Winter Park, Colorado
Lot 7, Vasquez Village
(Schedule No. R063673)**

The subject property is a single family residence located on a 1.85 acre site in the Vasquez Village Subdivision of Winter Park. The home is a two story design constructed of wood log and built in 1995. The above grade living area consists of 2,268 square feet and 700 square feet of unfinished basement area.

Petitioners are requesting an actual value of \$668,000.00, and Respondent has assigned an actual value of \$813,361.00 for tax year 2009.

Based on the market approach, Petitioner’s witness, Ms. Chris A. Braaf, presented an indicated value of \$660,000.00 for the subject property.

Ms. Braaf, Certified Residential Appraiser, prepared an appraisal report on the subject property and presented eight comparable sales. The sales ranged in sales price from \$400,000.00 to

\$1,140,000.00 and in size from 1,784 to 3,944 square feet. After adjustments were made, the sales ranged in sales price from \$564,700.00 to \$905,465.00.

Ms. Braaf testified the subject property is one of the few properties within the town limits of Winter Park on over an acre of land. The comparable properties selected were limited to the town of Winter Park, located within the closest proximity to the subject, and considered to be the most similar in size, style, quality, market appeal, and condition. There were no sales within the town of Winter Park with similar lot sizes for consideration. Ms. Braaf felt it was important to use only sales located in Winter Park, as opposed to outlining areas, because they reflect similar market trends.

The eight comparable sales were considered to represent the best available sales in the area, with most weight placed on Sales 1 and 2 best representing the subject property. All of the sales required aggressive adjustments with one of the largest adjustments made for differences in lot sizes.

The log home consists of good quality construction and workmanship. Interior condition was rated as good with average upgrades consisting of four bedrooms and two full bathrooms located off the center hallway with no direct access from either bedroom. The interior was considered to have average quality upgrades including: standard kitchen appliances, cabinets, Formica countertops, and vinyl flooring. The subject has somewhat obstructed views due to the tree covering; therefore, no adjustments were made to any of the sales for differences in views.

Ms. Braaf testified that Respondent has overvalued the subject property and has not adequately considered the adverse factors. Access to the subject property is through a driveway easement that detracts from the appeal. The driveway is steep in many areas, and driving back and forth in winter months is impossible. The property has multi-family zoning; however, the driveway access would have to be changed for multi-family use. The adjacent lot, owned by the Denver Water Board, is affected by dead trees destroyed by the Pine Beetle infestation.

Mr. Mark Kastler, the managing trustee for the trust, testified that the subject property is a log mill cabin kit considered average quality. The roof design is flawed allowing for ice and snow to collect between the dormers, forming an ice dam. The heat cables, which were installed to aid in preventing the ice dams to form, were ineffective and were swept away by snow. The driveway is a challenge, and during the winter months one needs a four-wheel vehicle to access the property and, in the event of a fire, would be difficult for a fire crew to access.

Petitioners are requesting a 2009 actual value of \$668,000.00 for the subject property.

Respondent presented an indicated value of \$830,000.00 for the subject property based on the market approach.

Respondent's witness, Mr. William W. Wharton, presented eight comparable sales ranging in sale price from \$525,000.00 to \$879,000.00 and in size from 1,336 to 2,410 square feet. After adjustments were made, the sales ranged from \$746,100.00 to \$976,600.00.

All eight sales are located within the same market area and share similar market influences. Sales Nos. 1, 4, 6, and 7 are located in the town limits of Winter Park and Sales Nos. 2, 3, 5, and 8

are located several miles outside of town. All adjustments were based on statistical analyses of each component contributing value. The site value adjustment was based on a regression analysis of vacant land sales per acre. The most weight was given to Sale Nos. 1, 2, and 6.

Respondent contends that the comparable sales selected were the best available within the market area and time period. The subject is one of the few homes in the Winter Park/Fraser area situated on sites larger than one-quarter to one-third acre. There are three properties within town limits with similar site size and only one property is larger than the subject.

The subject property is considered to have partial to good views of the Fraser Valley and the Continental Divide. Mr. Wharton does not agree that its view is obstructed by dead trees located on the adjacent lot owned by the Denver Water Board or that the entire area is affected by Pine Beetle infestation, and any impact on value will be reflected in the sales prices. Mr. Wharton then contended that problems with the driveway access and steep slope are considered typical for the area and are not seen as a detriment. Additionally, there is a fire hydrant at the end of the driveway for fire trucks to access in the event of a fire.

Respondent assigned an actual value of \$813,361.00 for tax year 2009.

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

The Board can empathize with both parties as to the complexity of trying to select suitable sales to value the subject property. The subject is unique in that it is one of the few properties within the town limits having a much larger lot size than other properties in the area.

The Board agrees with Respondent's approach to expand the market area for sales most similar to the subject. While the Board was convinced there is additional value attributed to a lot located in town, it also considers larger acreages an important factor. In addition, the Board was not convinced that Petitioner's adjustments for improvement size, lot size, location and view were well supported.

The Board was not convinced by Petitioner's contention that the subject is negatively affected by the driveway access and slope. The Board agrees with Respondent that similar driveways are typical in mountainous areas. The Board was convinced that Respondent's value conclusion was supported by market data, and the assigned value is below the indicated value, which prohibits any further consideration.

ORDER:

The petition is denied.

APPEAL:

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 29 day of November 2010.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley
MaryKay Kelley

Debra A. Baumbach
Debra A. Baumbach

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

Amy Bruns
Amy Bruns

