

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RUSSELL A. AND JOANNE M. MERWIN,</p> <p>v.</p> <p>Respondent:</p> <p>DELTA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51948</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 18, 2010, MaryKay Kelley and Debra A. Baumbach presiding. Joanne M. Merwin appeared pro se on behalf of Petitioners. Respondent was represented by Bradley K. Kolman, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1030 NE Shady Oak Ave, Cedaredge, Colorado
Delta County Schedule No. R002096**

The subject property consists of a 1.5 story residence that was built in 2002. The residence is wood frame construction containing 1,646 square feet of heated living area with 3 bedrooms, 1.75 bathrooms and an electric convection heating system. The property has a 480 square foot detached garage, a 96 square foot outbuilding and an open porch. The subject site is 2.75 acres located in the Cedaredge market area.

Based on a market approach, price per square foot analysis, and the 2004 \$175,000.00 purchase price plus \$25,000.00 in improvements, Petitioners presented an indicated value range of \$190,000.00 to \$200,000.00 for the subject property for tax year 2009.

Petitioners provided sixteen MLS listings from within the general market area, including several properties which had previously or later sold outside the base period, to support their opinion that values have been declining for several years. Petitioners also presented an indicated price per square foot calculation based on a method of multiplying \$110.00 per square foot by the subject's square footage. This figure was based on a statistical analysis performed by Respondent and used as a base value for all the sales that took place in the county.

Petitioners further contend that the subject property has been overvalued and Respondent did not address all the adverse factors affecting the subject property. The subject property has below average quality of construction, condition and workmanship. The fixtures do not match, the interior hollow core doors do not all open and the flooring is synthetic composite. The kitchen cabinets are low grade with no handles, the laminate countertop has been poorly repaired and the baseboards are constructed of window casings. The two car garage only fits one average size car, the decking is falling apart and the windows are of low grade quality.

Petitioners are requesting a 2009 actual value of \$190,000.00 to \$200,000.00 for the subject property.

Respondent's witness, Mr. James A. Wood, a Certified Residential Appraiser with the Delta County Assessor's office, presented an indicated value of \$290,000.00 based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$220,000.00 to \$379,500.00 and in size from 1,208 to 1,756 square feet. After adjustments the sales ranged from \$262,876.00 to \$323,553.00.

Mr. Wood testified that the majority of the market area consists of custom and semi-custom homes highly diverse in size, style and quality. In selecting suitable comparable sales it was important to try and find sales within the subject's direct market area that were considered to have the highest degree of similarities. There were a sufficient number of comparable sales that occurred within the data collection period in the Cedaredge market area, therefore an extended time period did not have to be considered for the analysis.

Mr. Wood testified that the comparable sales were adjusted for differences in physical characteristics based upon models that were developed through the Assessor's office. There was no interior inspection of the subject property. The analysis was based on an exterior inspection only.

In response to Petitioners' listings and sales, Mr. Wood testified that the listings could not be considered as they were not closed sales and the listings that did later sell did not close within the base period. Six of the listings were located in the Cedaredge area and the remaining listings were located outside the area. Several were manufactured homes and would not be considered suitable for comparison to the subject property.

Respondent assigned an actual value of \$283,203.00 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 reviewed all of the evidence and testimony presented and affirms Respondent's assigned value of \$283,203.00. Respondent presented three comparable sales located within the subject's market area and made adjustments for all differences in physical characteristics.

Petitioners presented no comparable sales that occurred within the statutory time period and listings of properties cannot be considered in an ad valorem market value analysis.

The Board gives minimal weight to Petitioners' 2004 sales price plus improvements and to their average price per square foot methodology to derive a value conclusion for the subject property as they do not take into account all factors affecting value in a market analysis and are not acceptable appraisal methodologies.

Additionally, the Board concludes there was insufficient evidence to support any further adjustment for the quality and condition of the subject property. Petitioners refused an interior inspection by the county and did not provide interior photos to support the "fair" condition of the interior. Based upon the exterior photos the subject appears to be in overall average to above average condition.

The Board affirms Respondent's assigned value of \$283,203.00 for the subject property for tax year 2009.

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 1st day of July 2010.

BOARD OF ASSESSMENT APPEALS

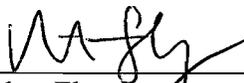


MaryKay Kelley



Debra A. Baumbach

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



Heather Flannery

