

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KENNETH S. AND LILLIAN M. MEDINA,</p> <p>v.</p> <p>Respondent:</p> <p>EL PASO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52027</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 23, 2009, Debra A. Baumbach and MaryKay Kelley presiding. Lillian M. Medina appeared pro se for Petitioners. Respondent was represented by Andrew C. Gorgey, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**50 Mobray Court, Colorado Springs, Colorado
(El Paso County Schedule No. 65072-06-027)**

The subject is a two-story residence with finished basement and two-car garage built in 1985 on a 9,857 square foot site in the Neal Ranch Subdivision.

Respondent assigned an actual value of \$385,236.00 to the subject property for tax year 2009. Petitioners are requesting a value of either \$298,557.00 or \$237,552.00.

Petitioners argued that the true market value of Economic Area 2, in which the subject is located, was not reflected in Respondent’s valuation and that an additional adjustment should have been applied to the subject’s actual value reflecting impact from foreclosures. El Paso County Assessor’s Sales & Foreclosure Analysis indicated a 16.3% reduction in value for arm’s-length transactions from 2006 (\$550,000.00 sales price average) to the first half of 2008 (\$460,000.00 sales price average) and a 33.3% reduction in value for foreclosure sales from 2006 (\$590,000.00) to the

first half of 2008 (\$390,000.00). Petitioners requested that actual value reflect either a 16.3% reduction from the subject's 2007/2008 actual value of \$356,700.00 (\$298,557.00) or a 33.3% reduction (\$237,552.00).

Ms. Medina testified that actual value for the subject property increased from tax year 2007 (\$356,000.00) to tax year 2009 (\$385,236.00), yet 2009 actual values of eleven comparable properties were lower than their base period sales prices.

Respondent presented four comparable sales ranging in sales price from \$385,000.00 to \$430,000.00 and in size from 2,366 to 2,606 square feet. All were located in the subject's Neighborhood 24 of Economic Area 2. After adjustments were made, the sales ranged from \$397,260.00 to \$426,485.00. A value of \$385,236.00 was indicated.

Respondent's witness discussed Petitioners' eleven comparable sales. Seven were arm's-length transactions which occurred during the base period ranging in sales price from \$345,000.00 to \$430,000.00 and four were foreclosure sales ranging from \$265,000.00 to \$360,000.00. The witness dismissed foreclosure sales, noting that 164 sales occurred in the base period within Neighborhood 24, of which only seven were foreclosures. Neighborhood 24 had the lowest foreclosure percentage of the six neighborhoods in Economic Area 2, and no downward adjustment was warranted in the market analysis.

The Board finds that Respondent presented sufficient probative evidence and testimony to support the assigned value of \$385,236.00.

The Board is convinced that foreclosure sales were an insignificant part of the overall marketplace, did not adversely impact arm's-length transactions, and should not be included in value estimation for the subject property.

The Board notes that any sale of a comparable property during the base period should be reviewed and considered in final value estimation; the market approach is the primary method of establishing value correlation. "Our state constitution and statutes make clear that individual assessments are based up on a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). Comparison of comparable sales' actual values with their sales prices is not appropriate.

On appeal to the Board, Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties within Neighborhood 24 of Economic Area 2 and adjusting for time, size, and a variety of physical characteristics. Value may, indeed, be higher or lower than the prior year's actual value but was determined by comparison of sales of similar properties during the base period, which also reflects economic and market changes.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued 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 21st day of January 2010.

BOARD OF ASSESSMENT APPEALS

Debra A Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

HA Flannery

Heather Flannery

