

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>ROBERT W. AND MARY F. FILE,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>HINSDALE COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 52173</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 18, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner was represented by Daniel H. File, son. Respondent was represented by Michael O’Loughlin, Esq. Petitioners are protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**650 Pine Street, Lake City, Colorado  
(Hinsdale County Schedule No. R000425)**

The subject property is an 1,801 square foot frame house with detached garage built in 1984 on a 0.379 acre site in the T-Mountain View Addition with spectacular mountain views.

Respondent assigned an actual value of \$294,880.00 for tax year 2009. Petitioners are requesting a value between \$240,000.00 and \$250,000.00.

Mr. Fine presented eight sales, their assigned value range being 10% to 27% below that of the subject. He concluded, after comparing all properties, that the subject was overvalued by 17% and based his requested value range on this percentage. A market grid was not presented, and adjustments were not made to the sales.

Respondent presented an indicated value of \$335,000.00 for the subject property based on the market approach. The witness presented three comparable sales, considered to be most similar in age and style, ranging in sales price from \$245,000.00 to \$275,000.00 and in size from 958 to 1,462 square feet. After adjustments were made for time, lot size, age, construction type and quality, size, and garage, the sales ranged from \$330,100.00 to \$336,600.00.

Mr. Fine questioned Respondent's Sale 3's log construction. Respondent's witness testified that log exteriors carry additional value and that this sale carried an adjustment for this characteristic.

The Board questioned Respondent's sizeable time adjustments. Respondent's witness testified that they were based on a Division of Property Taxation analysis and confirmed by a subsequent audit.

Respondent's witness discussed four of Petitioners' five sales that were not included in her appraisal. 2157 San Juan Springs Drive had an inferior, steep lot with a difficult building site considered unlike the subject's site. 521 Pine Street was on a smaller site surrounded by adjacent homes, accessed via an alley, and built of inferior quality construction. 2344 Elk Road was an A-frame with a basement garage on an unusually-shaped lot. 2556 Elk Road sat on two town lots within city limits in comparison with the subject's larger lot and superior views.

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

Petitioners used an equalization argument, comparing assigned values, to support the requested value for the subject property. The Board can consider an equalization argument if evidence or testimony shows that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioners.

The Board considers Respondent's comparable sales to be representative of the subject property. None of Petitioners' sales are considered superior.

## **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 28<sup>th</sup> day of July 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.

Heather Flannery

