

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>F. PHILIP ROBIN,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52174</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 12, 2010, James R. Meurer and Louesa Maricle presiding. Petitioner appeared pro se. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**99 Village Bound #11, Snow Mass Village, Colorado
Pitkin County Schedule No. R010111**

The subject property is a townhome unit within the Woodrun Five Townhouse Condominiums, a ski-in/ski-out development located at the base of the Snowmass Ski Area and directly across from the Snowmass Village mall. The subject residence is the center unit of a three-unit building that was constructed in 1981. The residence has two bedrooms, three bathrooms, and 2,284 square feet of gross living area. A renovation of the subject property was completed in 2002, including the installation of radiant floor heat, complete remodel of the kitchen, enclosure of an exterior deck and build-out to create a sitting room, and relocation of a fireplace. The residence has high quality finishes, fixtures, and appliances.

Petitioner requested a value of \$2,138,241.00. Respondent assigned a value of \$3,085,100.00 for tax year 2009.

Petitioner contends that the value of the subject property is incorrect because Respondent did not consider or adjust the comparable sales for differences in the number of bedrooms at each

property and that no adjustment for changing market conditions (time) was necessary for sales that occurred within the last six months of the base period.

Petitioner opted not to be sworn in or to provide direct testimony, but did read excerpts from sworn deposition transcripts given on March 4, 2010 by Tom Isaac and Joanie Baranowski, both employees of the Pitkin County Assessor's office. Mr. Robin did not present either of the deposition witnesses for testimony at the BAA hearing. The depositions were included in Petitioner's exhibits admitted by the Board, noting Respondent's objection that Petitioner did not lay proper foundation and because Petitioner did not present the deposition witnesses at the hearing for cross examination, the depositions must be considered hearsay.

The deposition excerpts read by Petitioner related to questions posed to each witness regarding appraisal methodology used for the initial appraisal of the subject property and whether or not specific consideration was given to the number of bedrooms at the subject and each of the comparable sales analyzed. The excerpts also related to questions asked regarding exhibits presented by Petitioner in the depositions showing sale price trends relative to the number of bedrooms.

Petitioner's conclusion of value of \$2,138,241.00 was the time adjusted value of Sale 1 in the appraisal presented by Respondent's witness.

Respondent's witness, Lawrence C. Fite, Chief Appraiser for the Pitkin County Assessor's Office, testified that he made an interior inspection of the subject property for the purpose of the appraisal he completed for the BAA hearing. Mr. Fite testified that the residence is well maintained and in excellent condition.

The witness presented four comparable sales including two properties located in the Woodrun Five Townhouse development and two properties in the Deerbrook Townhome Condominiums development, approximately a half mile northeast. The sales ranged in price from \$1,995,000.00 to \$5,400,000.00 and in size from 2,099 to 3,274 square feet. The witness's analysis of changing market conditions indicated that an upward adjustment of 0.87% per month was required for changing market conditions (time). Adjustments were made to each of the sales for differences in location, construction quality, condition of the improvements, and heated square footage. Sale 2 was also adjusted downward because it is a detached home. After adjustments, the sale prices for all four properties ranged from 2,913,306.00 to \$3,689,522.00. The witness testified that most weight was given to Sales 1 and 2 because they are located in the same residential development as the subject property. The adjusted prices of Sales 1 and 2 were \$2,913,306 and \$3,263,267 and the witness concluded to a value of \$3,100,000.00 for the subject property.

Respondent's witness testified that property appreciation was not flat in the last 6 months of the base period, but there was a lower level of appreciation during that time. The witness testified that the time adjustment used in the appraisal reflects the lower level of appreciation in values during the last six months of the base period; otherwise, the upward time adjustment would have been greater. Mr. Fite testified that although a specific adjustment was not made to

the comparable sales for the number of bedrooms at each property, the adjustment for gross living area incorporates that factor.

Petitioner failed to present sufficient probative evidence or testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board was not given the opportunity to question the witnesses who provided the sworn depositions presented by Petitioner, or to question Petitioner or the party or parties responsible for the exhibits and statistics included in the deposition transcripts to verify the sources of the statistical data or the methodology used. Petitioner did not provide sufficient evidence to support a different time adjustment than was used by Respondent.

The Board concludes that Respondent's witness did consider the changes in the rate of property value appreciation during the last six months of the base period. The Board concludes that although an adjustment for the number of bedrooms might be one factor considered in appraisal analysis, a simple correlation between the number of bedrooms and sale price does not adequately consider all factors relevant to value and that limiting the valuation analysis to that one feature could be misleading. Respondent's witness made adjustments to the sales for gross living area which includes bedrooms, so has accounted for that space.

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 1 day of October 2010.

BOARD OF ASSESSMENT APPEALS

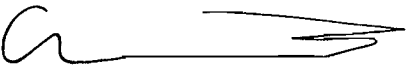


James R. Meurer



Louesa Maricle

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



Amy Bruins

