

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RAYMOND V. BOWERS,</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52755</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 22, 2010, Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Steven J. Zwick, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**566 West Colorado Ave, Telluride, Colorado
San Miguel County Schedule No. R1010943539**

The subject property consists of a 1,886 square foot Victorian style house built in 1977 located in a Historic Residential zoning district. The house has three levels. There are two bedrooms and one bathroom on the top floor; a living room, dining area, kitchen, and half bathroom located on the main level; and two bedrooms, a bathroom, and a den on the lower level. The subject property is a 0.0674 acre site that is located in a flood zone. There are two off-street parking spaces at the rear of the property.

Petitioner testified that the kitchen and bathroom finishes are basic without upgrades, there is a lack of a master bedroom suite, the master bedroom is disproportionately small, there is little storage space in the house, the stairways are narrow, the ceilings are low, and the heating system consists of a mix of hot water baseboard and electric heat. Mr. Bowers testified that

since seventy-five percent of the lower level is in a flood plain, the bedroom use of the level is not legal.

Petitioner testified that the subject property is located in the less desirable area of western Telluride. Mr. Bowers believes the subject property is negatively impacted by proximity to traffic on West Colorado Avenue which is the only road into and out of Telluride, large commercial buildings and ventures in the subject's area, its flood plain location, and schools in the neighborhood. There is a ski lift near the subject property and the neighborhood is becoming an accommodation area with short term rental condos, resulting in increased activities in the area.

Based on the market approach, Petitioner presented an indicated value of \$1,100,000.00 for the subject property.

Petitioner presented three comparable sales ranging in sales price from \$1,065,000.00 to \$1,240,000.00 and in size from 1,206 to 2,549 square feet. After adjustments were made, the sales ranged from \$872,981.00 to \$955,115.00. Comparable Sale 1 is located on a quiet street. Comparable Sale 2 has a better location and view, though it is not a Victorian style. Comparable Sale 3 has a similar location as the subject property. Mr. Bowers calculated his living area adjustment by using the actual sales price per square foot of each property after removing the land value. The average adjusted sales price was \$925,271.00 with the average of Comparable Sales 1 and 2 at \$951,415.00.

Mr. Bowers also presented two comparable sales that occurred in the extended base period during August and September 2006 for \$1,340,000.00 and \$1,650,000.00. After adjustments, the sales prices were \$1,022,237.00 and \$1,117,591.00. Mr. Bowers included these two sales as they were located on West Colorado Avenue and there were no later occurring sales located on that street.

Mr. Bowers believes Respondent did not adequately consider differences in views, zoning, site shape, remodeling, and floor plans of the subject property versus the comparable sales. Respondent's Comparable Sale 1 was built around the same time as the subject and is similar to the subject property. Mr. Bowers believes the view adjustment on Respondent's Sale 2 is overstated, the zoning allows for more uses than the subject property, it is not located in a flood zone, it had a major remodel including stainless steel appliances and butcher block counters, and has a much higher quality interior than the subject. Respondent made too small an adjustment for the remodel and understated the garage adjustment. Comparable Sale 3 is a square lot which allows for a better floor plan and it is a better site than the subject property. Mr. Bowers recalculated Respondent's sales using his adjustments for the above mentioned factors to arrive at a value range of \$957,575.00 to \$1,186,849.00, concluding to a subject property value of \$1,093,958.00.

Petitioner is requesting a 2009 actual value of \$1,100,000.00 for the subject property.

Respondent presented an indicated value of \$1,293,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$1,197,500.00 to \$1,640,000.00 and in size from 1,568 to 1,791 square feet. After adjustments were made, the sales ranged from \$1,137,725.00 to \$1,443,150.00.

Respondent's witness, Mr. Tim R. Mann, a Certified Residential Appraiser with the San Miguel County Assessor's office, testified that he conducted both an interior and exterior inspection of the subject property. His sales analysis did not indicate a value difference between properties located in a flood zone versus not in a flood zone; areas in the northern part of the flood plain near Oak Street are very sought after and are nearer to the flood creek than the subject property. The Town has done remediation to stop future flooding. The amount of traffic in the area varies greatly. Telluride is an extraordinary pedestrian area; the speed limit is 15 miles per hour with pedestrians having the right of way.

Comparable Sale 1 is similar in age to the subject property, had a small remodel in 1998, and has a smaller building site than the subject. It is located in the Historic Residential zone district in the eastern part of town. The comparable has views but has difficult winter access.

Comparable Sale 2 is located one block south of the subject property in the Accommodations District 1. It had a remodel in 2001, is larger than the subject, and has similar curb appeal as the subject. Mr. Mann considers this comparable to be most similar to the subject property and it is the only comparable that had below grade living space.

Comparable Sale 3 is located in the Hillside Transitional zoning district, is similar in age to the subject, had a remodel in 1999, and has some access issues as it is located on a steep hillside. The adjusted sale price of this comparable is the same value assigned to the subject property but is merely a coincidence as the adjustments were independently calculated.

Mr. Mann's adjustments are market based using paired sales analysis. Mr. Mann gave each comparable sale equal consideration and determined a value from the midpoint of the range at \$1,293,000.00.

Mr. Mann agrees that the current use of the subject basement would be illegal as it is in a flood plain.

Regarding Petitioner's comparable sales located in Exhibit 7, the properties are located all over town and the adjustments are inconsistent. Petitioner's Comparable Sale 2 is not similar to the subject property and Comparable Sale 3 is located in an inferior neighborhood that is commercial zoned.

Mr. Mann took Petitioner's two sales from the extended five-year data collection period contained in Petitioner's Exhibit 8 and made adjustments consistent with those used for his comparables. The adjusted sales prices were \$1,259,775.00 and \$1,502,800.00, which bracket the subject property value at \$1,293,000.00.

Respondent assigned an actual value of \$1,293,000.00 to the subject property for tax year 2009.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009. The Board notes that the disputed subject property value difference is small and primarily due to value judgment calls and weighting of the data. Each party presented an abundance of good data for the Board to consider.

Petitioner believes the subject property land is overvalued. The Board can only consider the overall value of residential property using the market approach and not the separate components of land and improvements.

Petitioner's sale adjustments were given lesser weight as they were not calculated using typical appraisal methodology, particularly the square footage adjustments, which should be applied at a consistent rate to each of the sales. Respondent's adjustments were market derived and consistently applied, and therefore are given more weight by the Board. Also Petitioner used averaging, which is not an acceptable way to determine a market value conclusion

The Board gives lesser consideration to Respondent's Sale 3 as it has a superior floor plan, view, and upgrading than the subject property. The Board relied most on Respondent's Sales 1 and 2 and Petitioner's two sales from the extended base period as adjusted by Respondent.

Respondent's Sale 2 is located in the western part of town, like the subject and has lower level living space, but it also has superior zoning and a nearer location to the ski lift. The Board is persuaded that the remodel adjustment should be larger and the view adjustment should be smaller, which the Board believes is offsetting. Respondent's Sale 1 is most similar to the subject property in design and has the smallest amount of adjustments. The Board gives great weight to this sale.

Respondent's witness admitted that Petitioner's use of the lower level is illegal due to the flood plain but the Board notes no adjustment is made for this factor. The Board concludes that the subject property value should come from the lower end of the sales range to account for the subject property's illegal use of the lower level bedrooms.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$1,200,000.00, a value near the adjusted sales price of Respondent's Comparable Sale 1.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,200,000.00.

The San Miguel County Assessor is directed to change his/her records accordingly.

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 October 2010.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Karen E. Hart

Karen E. Hart

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

Amy Bruins
Amy Bruins

