

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 53093**

Petitioner:

**DIXIE L. & NAS AMERY,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on March 18, 2010, James R. Meurer and Sondra W. Mercier presiding. Dixie L. Amery appeared pro se on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**5345 Country Club Drive, Larkspur, Colorado  
(Douglas County Schedule No. R0009435)**

The subject is a two-story single family residence built in 2006. It has 2,533 square feet above grade plus a 1,275 square foot, unfinished walkout basement.

Petitioner, Dixie Amery presented seven comparable sales ranging in sales price from \$319,900.00 to \$399,500.00 and in size from 1,927 to 3,310 square feet. After time adjustments were made, the sales ranged from \$311,800.00 to \$396,300.00. Ms. Amery made no other adjustments. Ms. Amery placed the greatest reliance on the sale of 4425 Red Rock Drive, with a time adjusted sales price of \$352,800.00.

Ms. Amery contends that Respondent did not adequately adjust for the significant cracks to interior walls, exterior stucco, sidewalks and driveway that have been caused by soil conditions. The home had not been occupied in the three years prior to the purchase by Petitioners.

Petitioners are requesting a 2009 actual value of \$365,000.00 for the subject property, based on the actual purchase price paid on March 27, 2009.

Respondent presented an indicated value of \$404,164.00 for the subject property based on the market approach.

Respondent researched sales within the subject's neighborhood of custom built homes ranging in size from 2,200 to 2,800 square feet built between 1993 and 2006. Respondent presented six comparable sales with time adjusted sales prices ranging from \$352,800.00 to \$536,500.00 and sizes ranging from 2,258 to 2,722 square feet. After adjustments for differences including size, basement, garage size, age and obsolescence were made, the sales ranged from \$361,647.00 to \$504,619.00. Respondent applied a \$4,000.00 downward adjustment to each sale as obsolescence to reflect an estimate for repairs resulting from soil conditions.

Respondent contends that Petitioners' sales are located in an adjacent neighborhood of Perry Park East, represent significantly older construction or are outside the reasonable size range with no adjustments made.

Respondent assigned an actual value of \$404,164.00 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.

In valuing the subject, the Board can give no consideration to the actual sale of the subject because it occurred in March 2009, well beyond the level of value date of June 30, 2008. This limitation is outlined in Section 39-1-104 (10.2)(d), C.R.S., "'level of value' means the actual value of taxable real property as ascertained by the applicable factors enumerated in section 39-1-103 (5) for the one-and-one-half-year period immediately prior to July 1 immediately preceding the assessment date . . . ."

Petitioners' sales were found to be of older and therefore inferior properties, with no adjustments made for size or year built.

While the Board was convinced that the subject suffered from severe structural issues related to soil conditions in the area, Petitioners provided no estimate of the cost or other data associated with curing the deficiencies shown. Respondent attempted to make an adjustment to comparable sales to reflect these issues, using a \$4,000.00 uncontested adjustment. After appropriate adjustments were made, Respondent's sales were found to be supportive of the actual value of \$404,164.00 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 12<sup>th</sup> day of May 2010.

**BOARD OF ASSESSMENT APPEALS**

  
James R. Meurer

  
Sondra W. Mercier

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

  
Heather Flannery

