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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARJORIE AND CHARLES SHAPIRO,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 53292</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on April 19, 2010, Karen E. Hart and MaryKay Kelley presiding. Charles Shapiro appeared pro so for Petitioners. Respondent was represented by David Wunderlich, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**34166 Little Berry Trail, Evergreen, Colorado
(Jefferson County Schedule No. 431053)**

The subject property is a 4,490 square foot two-story residence with a partially finished basement and four-car garage. It was built in 1997 on a 9.80 acre site along the I-70 mountain corridor and is accessed from County Road 65 via a shared driveway.

Respondent assigned an actual value of \$1,500,000.00 for tax year 2009. Petitioners are requesting a value of \$1,350,000.00.

Petitioners purchased the subject property in February of 2007 for \$1,350,000.00 and consider this transaction to be the best indicator of value. Since purchase, improvements totaling approximately \$70,000.00 were completed including structural repair, exterior stucco resurfacing, landscaping, and fencing.

Mr. Shapiro described the nearby Soda Creek subdivision as master planned and covenant controlled. Construction quality and overall appeal are superior to the homes in the subject's area, which have neither building restrictions nor protective covenants. Some homes visible from the subject property were built of poor quality and lack maintenance. The view also includes abandoned and rusted vehicles, campers, junk, and animals (goats, llamas, and cows), none of which would be allowed in Soda Creek.

Petitioners noted that the subject site is impacted by traffic noise from County Road 65 and Interstate 70. Respondent's witness did not make adjustments for this issue: traffic noise is not addressed unless the site abuts the source.

The parties agreed that the availability of sales outside Soda Creek was limited. Petitioners presented six comparable sales ranging in price from \$1,025,000.00 to \$1,396,000.00 and in size from 3,402 to 5,030 square feet. Five were located in Soda Creek and one almost seven miles away. Petitioners made no adjustments to the sales, which were provided as support for the subject's purchase price and requested value.

Petitioners presented an appraisal prepared for the 2007 purchase transaction. Although its author was unavailable for questioning, factual data includes listing history: the subject was listed for sale in November of 2005 for \$1,600,000.00 and experienced many price reductions before contract and sale. The appraiser incorrectly portrayed the subject's location as within the Soda Creek subdivision and, therefore, made no adjustments to the covenant-controlled Soda Creek and Genesee comparable sales. The six sales ranged in price from \$1,200,000.00 to \$1,800,000.00.

Respondent presented an indicated value of \$1,834,600.00 for the subject property based on the market approach. The witness presented three comparable sales ranging in sales price from \$1,720,000.00 to \$1,950,000.00 and in size from 4,400 to 4,763 square feet. Two were located in Soda Creek, the third six-plus miles away in a non-covenant-controlled area. No adjustments were made for location in the Soda Creek subdivision. After adjustments were made, the sales ranged from \$1,556,800.00 to \$2,004,300.00.

Respondent's witness presented a market grid for Petitioners' six comparables with adjusted sales prices ranging from \$1,155,800.00 to \$1,820,350.00 and a value conclusion of \$1,441,341.00. The witness declined selection of these sales for her appraisal, one because of its 35.416-acre site and four others because they were inferior in construction quality.

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

The Board is convinced that the subject property lies within a marketing area dissimilar from Soda Creek: the subject's area has no protective covenants, construction quality varies widely, degree of physical maintenance varies widely, and overall appeal is inferior (on questioning, Respondent's witness was unable to identify additional association benefits). The Board is convinced that value of the subject property was impacted by the above-mentioned differences yet these differences were not addressed in the appraisal presented by Respondent's witness.

Respondent's Sale 3, with an adjusted sales price of \$1,556,800.00, is the most similar sale provided by either party due to its non-covenant-controlled location. The Board gives little weight to Petitioners' one comparable not located in Soda Creek because of its 35.416-acre site. Two of Petitioners' sales are ranch designs, which market to a different buyer. Petitioners' remaining three and Respondent's two Soda Creek sales resulted in a range of adjusted sales prices from \$1,155,800.00 to \$2,004,300.00.

The Board considers the subject property's arm's-length transaction at \$1,350,000.00 plus \$70,000.00 in post-purchase improvements to be the best indicator of value. Additionally, it falls within the adjusted sales price range of both parties. The Board concludes that the 2009 actual value of the subject property should be reduced to \$1,420,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,420,000.00.

The Jefferson 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 13th day of May 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

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

Heather Flannery

