

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LESLIE A. SCHWARTZBERG,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53304</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 17, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Martin E. McKinney, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**1554 Pinedale Ranch Circle, Evergreen, Colorado
(Jefferson County Schedule No. 182203)**

The subject is a 4,795 square foot two-story house with a partially finished walkout basement and three-car garage built in 2000 on a 12.108 acre site in the Pinedale Ranch subdivision.

Respondent assigned an actual value of \$1,857,760.00 for tax year 2009 but is recommending a reduction to \$1,844,000.00. Petitioner is requesting a value of \$1,400,000.00.

Mr. Schwartzberg, through testimony, presented three comparable sales ranging in sales price from \$975,000.00 to \$1,250,000.00 and in size from 4,100 to 5,030 square feet. No adjustments were made to the sales. Petitioner compared their actual values to the subject's actual value.

Mr. Schwartzberg discussed actual values assigned to neighboring homes: a large log home with a 9,000 square foot barn on ten acres with a \$300,000.00 higher actual value than the subject's;

an adjacent property whose actual value was reduced by 10% in comparison to the subject's 50% increase; and a property 100 yards down the road with a 20% decrease in actual value.

Mr. Schwartzberg considered a 10% increase in value to be reasonable and based his requested value on a 10% increase from the 2007 actual value of \$1,221,120.00.

Respondent presented an indicated value of \$1,844,000.00 for the subject property based on the market approach. The witness presented four comparable sales ranging in sales price from \$1,350,000.00 to \$2,500,000.00 and in size from 3,357 to 6,434 square feet. She based selection on construction quality, acreage, amenities, and proximity to the subject. After adjustments were made, the sales ranged from \$1,567,300.00 to \$2,015,100.00.

Respondent's witness addressed Petitioner's comparable sales: Sale 1's construction quality was inferior to the subject, and its size at 0.63 acres was significantly smaller; Sale 3's five-acre lot was considerably smaller than the subject; and Sales 2 and 3 were built in 1979 and 1982, respectively, and were located in Soda Creek, a markedly different subdivision with different influences.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2009; however, the Board agrees with Respondent's recommended reduction in value to \$1,844,000.00.

The Board, in reviewing all seven comparables, considers Respondent's four to be most similar in acreage, construction quality, and location. Petitioner's sales did not include information about seller concessions, personal property, or site detail (terrain, exposure, view). Additionally, Soda Creek sales are not considered comparable to the subject subdivision.

Petitioner presented an equalization argument with his comparison of actual values for neighboring properties. The Board can consider an equalization argument if evidence or testimony is presented which shows the assigned values of the equalization comparables were derived by application of the market approach and that each was correctly valued. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioner.

Petitioner derived a requested value by applying a percentage increase to the 2007 tax year. The Board gives no weight to this methodology, which is not considered an appropriate appraisal practice. Both state constitution and statutes require use of the market approach to value residential property.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,844,000.00.

The Jefferson County Assessor is directed to change his 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 October 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.

Amy Bruins

Amy Bruins

