

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53500

Petitioner:

EDWARD D. BRUDER, JR.,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 31, 2010, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**113 Eagle Valley Drive, Lyons, Colorado
(Boulder County Schedule No. R0505076)**

The subject is a single family residence with a basement and garage built in 2005 in the Stone Canyon subdivision.

Respondent assigned an actual value of \$595,000.00, which was reduced to \$550,000.00 after the Board of Equalization hearing. Petitioner is requesting a value of \$488,000.00.

The parties reported different improvement sizes. Petitioner, offering the MLS listing sheet, described the subject as Ryland's Champagne model with 3,613 square feet plus 1,540 square feet in the basement. Respondent reported the improvement size as 3,245 square feet and the basement at 1,663 square feet. Assessor records were not available for verification.

Petitioner purchased the subject property, formerly the sales office and model home, from Ryland Homes in November of 2007 for \$629,400.00. The sales price includes model home furniture (personal property) of undetermined value.

Mr. Bruder presented three builder sales at \$484,496.00, \$500,890.00 and \$504,278.00. All were Champagne models with 3,613 square feet. All had unfinished basements (Comparable Sale 3 a walkout with a \$10,000.00 adjustment), three-car garages, and lot premiums like the subject. Comparable Sale 1 was given most weight, and value was concluded at \$488,000.00.

Petitioner argued that all of Respondent's comparable sales had superior views that should have carried adjustments.

Respondent presented an indicated value of \$550,000.00 for the subject property based on the market approach. The witness presented three comparable resales at \$498,500.00, \$512,000.00 and \$625,000.00. After adjustments were made, the sales ranged from \$542,905.00 to \$603,495.00. The witness made no adjustments for views, considering them equal to the subject.

Respondent's witness declined to include Petitioner's sales in his analysis because they were builder sales with unknown concessions, upgrades, and incentives. Additionally, Comparable Sale 1 (\$484,496.00) involved a Realtor-purchaser and a sale financed by the builder and transacted by the builder's title company.

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

The Board is reluctant to use Petitioner's builder sales as comparisons, as they commonly include builder concessions and incentives.

The Board is convinced that the square footage of the subject improvement is 3,613 based on MLS records absent contradictory evidence. Additionally, MLS photos of Petitioner's comparable sales, all with 3,613 square feet, have the same exterior as the subject.

Based on photos and the subdivision map, the Board is convinced that the subject property and Respondent's comparable sales all enjoyed view premiums. No evidence was presented to convince the Board that they were superior.

Respondent's re-calculated analysis with a corrected square footage concludes to a range above the actual value. The Board is not authorized to increase the actual value.

ORDER:

The petition is denied.

APPEAL:

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 24 day of September 2010.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries
Diane M. DeVries

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

