

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>NANCY C. BUTLER TRUST,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 53509</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on December 29, 2010, Karen E. Hart and MaryKay Kelley presiding. William C. Butler appeared on behalf of Petitioner. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**31951 Lodgepole Drive, Evergreen, Colorado  
Jefferson County Schedule No. 065586**

The subject property is an A-frame built in 1974, with a two-story addition built in 1990. The 1,246 square foot house sits on a 0.950 acre site in the Evergreen Hills subdivision.

Petitioner is requesting actual values of \$220,120.00 and \$223,753.00 for the subject property based on two scenarios described herein. Respondent assigned a value of \$253,280.00 for the subject property for tax year 2009.

Mr. Butler described the original owner-builder as unconventional and the structure, built into sloping terrain, as unique. He detailed significant problems: structural defects; stress-related micro fractures; rotting wood beams; crumbling concrete, cracking, and settling; burst skylights; interior groundwater; thin and peeling exterior paint; rotted chimney chase; and mold.

Mr. Butler described the detached 784 square foot structure as a storage shed and argued that its elevated plywood floor would not support the weight of a vehicle.

Mr. Butler testified that a utility road bisects the northern portion of the site, accessing the Brook Forest water tank, and was not addressed by Respondent. It can be accessed by the general public, is visible from the house, and negatively impacts value.

Mr. Butler first concluded to a value of \$220,120.00, based on estimated cosmetic repairs of \$23,000.00 applied to the prior actual value of \$243,120.00.

Mr. Butler then presented four comparable sales ranging in sales price from \$191,500.00 to \$243,000.00. No adjustments were made to the sales. Mr. Butler concluded to a value of \$223,750.00 based on the average of the four sales prices.

Respondent's witness, Cary Jane Lindeman, Certified Residential Appraiser, presented a value of \$257,580.00 for the subject property based on the market approach. She presented four comparable sales ranging in sales price from \$219,000.00 to \$300,000.00 and in size from 1,224 to 1,858 square feet. After adjustments were made, the sales ranged from \$233,138.00 to \$281,100.00.

Ms. Lindeman, who was not granted interior access, acknowledged that structural defects existed but could not estimate a cost to cure without a structural inspection and expert testimony. She disagreed that the utility road negatively impacted value but was convinced that the 784 square foot utility shed was not functional as a garage.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued.

The Board is unable to give substantial weight to Petitioner's comparable sales. Considerable data was omitted and a market grid with adjustments was not provided.

The Board is convinced that significant physical defects exist. Without an engineer's report and repair estimates, reconciliation at the low of Respondent's adjusted value range is indicated. The Board is not convinced that the utility road negatively impacts value.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$233,000.00.

### **ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$233,000.00

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

### **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 22 day of January 2011.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

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Karen E. Hart

*MaryKay Kelley*

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MaryKay Kelley

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

*Amy Bruhn*

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Amy Bruhn

