

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53529

Petitioner:

JAMES REESE AND DINAH MARIE MCKAY,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 20, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Michael Koertje, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**4695 Portside Way, Boulder, Colorado
Boulder County Schedule No. R0038073**

The subject is a 1,024 square foot two-story townhouse with an unfinished basement and carport. It was built in 1980 in the Portal Estates subdivision of the Twin Lakes neighborhood.

Respondent assigned an actual value of \$209,000.00 but requested a reduction to \$205,000.00. Petitioners are requesting a value of \$195,000.00.

Mrs. McKay argued that the subject's actual value was considerably higher than a substantial number of other properties. She also expressed displeasure with the multiple appraisals throughout the appeal process, the process itself, and the disparate adjustments used by various staff appraisers.

Mr. McKay presented five comparable sales ranging in sales price from \$177,000.00 to \$288,000.00 and in size from 960 to 1,396 square feet. After adjustments were made, the sales ranged from \$176,140.00 to \$210,840.00. Mr. McKay did not conclude a value.

Discussing Respondent's appraisal, Mr. McKay, noted that the witness declined to make adjustments for two of Sale 3's superior features: a larger lot and common-wall carports, which are more desirable than common-wall units. In response, Respondent's witness denied that lot size added value because of the indivisibility of a town house lot in a planned unit development. The witness also argued that, in his opinion, adjoining carports have no greater marketability and value than adjoining living units.

Based on the market approach, Respondent presented an indicated value of \$205,000.00 for the subject property. The witness presented three comparable sales ranging in sales price from \$177,000.00 to \$252,000.00 and in size from 1,024 to 1,302 square feet. After adjustments were made, the sales ranged from \$205,000.00 to \$233,000.00. Sale 1 (4691 Portside Way), with an adjusted value of \$205,000.00, was given most weight.

Respondent's witness commented on four of Petitioners' sales, none of which he included in his analysis: three were detached with more windows and greater privacy, and another was a multi-story town house discarded for inferior comparability.

The parties used one common sale, 4691 Portside Way, which has the identical floor plan and a common wall with the subject unit. Respondent, describing its poor condition due to tenant occupancy, applied a condition adjustment of \$25,000.00, which included re-establishing habitability (pest control, furnace repair resulting from high carbon dioxide readings, and plumbing system repair) and addressing its poor condition (carpet, paint, and miscellaneous issues). Petitioners argued that the condition adjustment should have been \$9,000.00 based on conversations with the purchasers, who provided habitability-related repairs and related costs.

Mr. and Mrs. McKay testified that the common sale at 4691 Portside Way had a finished basement. Respondent's witness denied knowledge of this and offered to research this issue and make corrections if confirmed.

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

The Board agrees with the parties that 4691 Portal Way is most representative of the subject property. It is convinced that basement finish existed and has applied Respondent's per-square-foot adjustment of \$50.00 for it. The Board is convinced that Respondent's condition adjustment of \$25,000.00 is supported and appropriate. An adjusted value of \$192,200.00 is concluded.

Both the state constitution and statutes require use of the market approach to value for residential property. The Board can consider an equalization argument if evidence or testimony is presented showing that application of the market approach for each property results in a value different than that assigned. Such an analysis was not presented. Petitioners' comparison of actual values is given limited weight.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$195,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$195,000.00.

The Boulder 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 29th 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 L Bruins

Amy Bruins

