

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>STEVE K. & STACIE M. UPTON,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket Nos.: 53536 & 53537</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 16, 2010, Sondra W. Mercier and Debra A. Baumbach presiding. Mr. Steve K. Upton appeared pro se for Petitioners. Respondent was represented by Robert D. Clark Esq. Petitioners are protesting the 2009 actual value of the subject property.

Docket Nos. 53536 and 53537 were consolidated for hearing.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**13244 Pine Creek Road, Sedalia, Colorado
Douglas County Schedule Nos. R0361239 & R0461249**

The subject property is a ranch style residence constructed in 2006. The land area consists of a 35.35 acre parcel with the lower section located in a separate tax district. There is 4,366 square feet of above grade living area, a 3,449 square foot walkout basement area, and an attached oversized garage.

Based on the market approach, Petitioners presented an indicated value of \$620,000.00 for the subject property. Petitioners presented eight comparable sales ranging in sales price from \$605,000.00 to \$1,165,000.00 and in size from 2,566 to 4,537 square feet. Petitioners' comparable sales included the comparable sales presented by Respondent, and no adjustments for differences were made to the sales.

Mr. Upton testified the location is the main dispute in the valuation of the subject property. The subject is located in a remote area on a 35.53 acre parcel on metes and bounds with limited access. There are no available services and the driveway has a steep access. In this area the location should be the determinate factor in the valuation not the differences in square footage or other physical characteristics.

Petitioners contend that Respondent relied on comparable sales that are located in a superior market area and did not make adequate adjustments for the differences in location. Additionally, Respondent has overvalued the subject's Quonset hut. The total cost to construct the Quonset hut was approximately \$5,000 and Respondent valued it at \$15,000.00 with no reason for the appreciation in value.

Mr. Upton testified that his Comparable Sale 4 is the best representation of value and the other sales used are not considered to be comparable.

Petitioners are requesting a 2009 actual value of \$620,000.00 for the subject property.

Respondent's witness, Jerry D. McLeland, a Certified Residential Appraiser with the Douglas County Assessor's office, presented four comparable sales ranging in sales price from \$605,000.00 to \$1,165,000.00 and in size from 2,566 to 3,541 square feet. After adjustments were made, the sales ranged from \$814,646.00 to \$1,045,240.00. Respondent made a 5% downward adjustment to each of the sales to reflect that the subject is bisected by a road (shown as z location on Respondent's adjustment grid).

Mr. McLeland testified he selected the best available comparable sales within the time period. All of the comparable sales were considered to be the most similar in size, style, quality, and market appeal. The subject was constructed in 2006 and considered to be of good quality construction and good condition. Adjustments were made for differences in physical characteristics.

Mr. McLeland testified the subject property is located several miles from a paved feeder street and all comparable sales share similar available services. Comparable Sale 1 was primarily used to bracket the location issues, it has six acres versus the subject's 35.53 acres; however, it is the closest in proximity to the subject reflecting market trends. The comparable sales used are the best available within the market area and time frame.

The land area adjustment was based upon a vacant land sale within the market area and the Quonset hut adjustment was based on a cost detail with depreciation.

Respondent assigned an actual value of \$840,812.00 for the subject property for tax year 2009.

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

The Board gave most weight to Respondent's market approach. Respondent's sales were all located within the subject's market area and adjusted for all differences in physical characteristics. Through photos and maps presented by both parties the Board was not convinced the subject's location is affected to a higher degree than other properties in the area. Therefore, no further adjustment was warranted.

The Board was not convinced Respondent gave adequate consideration to the value of the outbuildings. The adjustments made for the difference between the subject's Quonset hut and the comparable sales' outbuildings were based on value using a cost method with depreciation applied. The Board was not convinced that actual cost equates to market value or is an indication of market perception. Respondent's cost value for the Quonset hut is well above the original cost to construct and there was no market data provided to support the appreciation. The Board understands that Respondent might have limited data to draw from and acknowledges Respondent made adjustments for the differences in the outbuildings. However, the Board was not convinced that the adjustments represent market perception. Respondent's Sales 2, 3, and 4 all have large superior horse barns. Therefore, the Board gave most weight to Respondent's Comparable Sale 1, located at 1320 S. County Highway, used by both parties and the sale Petitioners gave the most weight. The Board concluded this sale is the most comparable to the subject property as it required the least degree of adjustment and is located closest to the subject property.

The Board adjusted Respondent's Comparable Sale 1 \$5,000.00 for the Quonset hut and kept the remaining adjustments made by Respondent, concluding to an actual value of the subject property of \$804,076.00 for tax year 2009.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$804,076.00

The Douglas 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 7th day of May 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

Debra A. Baumbach
Debra A. Baumbach

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

Heather Flannery

