

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>SCOTT AND LINEA WOODY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 53560</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 11, 2011, Diane M. DeVries and Debra A. Baumbach presiding. Scott Woody appeared on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**545 Tremolite Place, Castle Rock, Colorado 80108  
Douglas County Schedule No. R0454574**

The subject property is a custom two-story residence built in 2007. There are 5,113 square feet of above grade living area with a 2,550 square foot walkout basement with 1,503 square feet finished. The attached garage area consists of 944 square feet and the detached garage area consists of 269 square feet. The residence is located in the Maher Ranch subdivision in Castle Rock and is situated on a 2.036 acre lot.

Petitioners are requesting an actual value of \$875,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$1,225,000.00.00 for the subject property for tax year 2009.

Petitioners' witness, Mr. Scott Woody, testified that the subject property was purchased as an REO sale in November of 2008 for \$1,025,000.00. The property was in foreclosure from the builder and was sold in "as is" condition. Mr. Woody was aware there were deficiencies in the property at the time of the purchase. However, he was not aware that the subject property did not have a certificate of occupancy at the time of the purchase.

Mr. Woody contends that the appraisal done for the purchase of the property indicated a lower value than the offer he made. He purchased the property at above market value because he wanted a larger lot size, better views and larger square footage. Mr. Woody testified that at the time of sale the subject property had no driveway, no walkway or steps, and no front door landing. There was no landscaping and there were numerous repairs needed on the property.

Mr. Woody contends Respondent has overvalued the subject property by using superior sales and did not consider all the deficiencies associated with the property.

Mr. Woody engaged an appraiser to determine the market value of the property. According to the appraiser, the subject property's indicated value is significantly lower than the value set by Respondent. Respondent made significant adjustments for lot size and view differences and did not consider the lack of driveway and landscape.

Petitioners' witness, Mr. Phil Rice, Certified Residential Appraiser, presented an indicated value of \$700,000.00 using the market approach. Mr. Rice presented seven comparable sales ranging in sale price from \$470,000.00 to \$1,151,000.00 and in size from 3,280 to 5,060 square feet. After adjustments, the sales ranged from \$532,520.00 to \$906,040.00.

Mr. Rice testified that he was very familiar with the market area and the comparable sales he selected were similar to the subject property and reflected similar physical characteristics. All of the sales were bank owned foreclosure properties as the subject property was at the time of the purchase.

Mr. Rice testified he based his adjustments for lot size and views on two listings located within close proximity to the subject. Adjustments were also made for mortgage fraud associated with several sales in the subdivision. All other adjustments were based on Mr. Rice's appraisal experience. After making adjustments to the sales, Mr. Rice correlated to a value of \$700,000.00 for the subject property.

Petitioners are requesting 2009 actual value of \$875,000.00 for the subject property.

Respondent's witness, Mr. Christopher K. Morley, Registered Appraiser, presented an indicated value of \$1,300,000.00 using the market approach. Respondent presented six comparable sales ranging in sale price from \$775,000.00 to \$1,250,000.00 and in size from 3,825 to 5,381 square feet. After adjustments, the sales ranged from \$1,201,289.00 to \$1,612,320.00.

Mr. Morley utilized comparable sales that he considered to be the most similar to the subject property in size, style, quality, and market appeal. All of the comparable sales used were located within the same market area and shared similar characteristics, custom built and were all arms-length transaction. There were no bank owned sales used in the analysis.

Mr. Morley testified that the adjustments made for lot size and view differences were derived from an analysis of vacant land sales within the subject's subdivision. The adjustment was derived by analyzing sales with limited views and inside locations versus superior views and

location. Mr. Morley made adjustments for differences in physical characteristics and consideration was given for the lack of driveway. The other deficiencies noted by Petitioner were considered typical maintenance items and no adjustments were made.

Mr. Morley testified that the sales used by Petitioners' witness, Mr. Rice, were foreclosure sales and reflected lower value ranges that are not typical of market value in the area. Petitioners' witness rated the property as good and did not disclose any deficiencies in the property or make any adjustments. The adjustments made for differences in physical characteristics were not supported by any market data and one sale used is that of a tract home not a custom built home like the subject.

Respondent assigned an actual value of \$1,225,000.00 to the subject property for tax year 2009. An adjustment was calculated based on interior lots sales with no views versus lots with views.

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

The Board placed most weight on Respondent's value analysis and conclusion. Respondent's adjustments were supported through testimony and the data presented. The comparable sales used were market sales and appropriate adjustments were made for lot size and view differences. The gross and net adjustments fell within a tighter span indicating that appropriate sales were used. All of the sales were market sales and not foreclosure sales indicating a supportable market perception. Respondent's assigned value took into consideration any factors that affect the value of the subject, such as the condition of the driveway.

The Board agrees that the most significant adjustment was for lot size and view differences. The Board places minimal weight on Petitioners' witness' adjustments because there was no market data presented to support the adjustments. A great deal of testimony presented was for listings and data that the Board could not consider because it was outside the statutory time frame.

The Board concludes there is insufficient evidence to support the use of only foreclosure properties in valuing the property. The Board placed minimal weight on Petitioners' valuation analysis. The largest adjustment made by Petitioners' witness was for mortgage fraud with several sales adjusted downward up to 50% of the sales price. There was no evidence presented for the Board to consider as to the validity of this type of adjustment. The Board was not convinced these sales were involved in mortgage fraud and that they would be appropriate sales to use in the valuation process. Respondent's assigned value is lower than the indicated value and takes into consideration any additional factors affecting the overall value.

Both parties agreed there was no certificate of occupancy issued for the subject at the time of the sale. According to Petitioner's own testimony, the subject property was habitable and he had been living in the property for some time before certificate of occupancy was issued. There was no evidence presented that Petitioners could not occupy the property because of major issues indicating a certificate of occupancy could not be issued.

The Board affirms Respondent's assigned value of \$1,225,000.00.

**ORDER:**

The petition is denied

**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 August, 2011.

BOARD OF ASSESSMENT APPEALS

*Diane M DeVries*

Diane M. DeVries

*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.

*M Crichton*

Milla Crichton

