

<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>DAVID A. POWELL,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 53597</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 8, 2010, Diane M. DeVries and Sondra W. Mercier presiding. Mr. David A. Powell, Petitioner, appeared pro se. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**2190 Emerald Road, Boulder, Colorado  
Boulder County Schedule No. R0032971**

The subject property is a 1,762 square foot, two-story single family residence on a 0.97 acre lot. The subject is located in the small Boulder County enclave subdivision of Githens Acres, which is surrounded by the City of Boulder.

Petitioner is requesting an actual value of \$482,842.00 for the subject property for tax year 2009. Respondent assigned a value of \$724,400.00 for the subject property for tax year 2009.

Mr. Powell presented six comparable sales ranging in sale price from \$486,000.00 to \$605,000.00 and in size from 1,416 to 2,295 square feet. After adjustments were made, the sales ranged from \$434,825.00 to \$608,500.00.

Petitioner contended that the sales used by Respondent were not the best available sales, and that two of the three sales were never exposed to the open market. Further, Petitioner noted that only one of the three sales used by Respondent occurred within the base period, with the remaining

two sales taken from the extended base period. Petitioner presented evidence that flood insurance was required for the subject based on a Letter of Map Amendment/Letter of Map Revision (LOMA/LOMR), dated March 28, 2007, from the Federal Emergency Management Agency (FEMA). Mr. Powell also testified that Respondent did not give adequate consideration to the subject's location in an enclave area of Boulder County, which required a special taxing district but provided no City services.

Petitioner is requesting a 2009 actual value of \$482,842.00 for the subject property.

Respondent presented a value of \$780,000.00 for the subject property based on the market approach.

Respondent's witness, Mr. Stewart A. Leach, Certified General Appraiser with the Boulder County Assessor's Office, presented three comparable sales ranging in sale price from \$655,000.00 to \$800,000.00 and in size from 1,176 to 1,838 square feet. After adjustments were made, the sales ranged from \$775,000.00 to \$806,000.00. Mr. Leach testified that an overwhelming portion of the subject's value comes from the land's value, rather than from the residence's value, because of the larger lot size and better location.

Mr. Leach testified that he had relied on sales that occurred over the extended base period in order to be able to analyze sales within the subject's Githens Acres subdivision. Also, Respondent's Sale 3 included a significant portion of the site within the flood plain.

Respondent assigned an actual value of \$724,400.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009. The Board was convinced that the Githens Acres subdivision is in a unique location, which leads to a high percentage of the value being attributed to land, and that Respondent's sales provided the best indication of value for the subject.

Petitioner's sales represented similar types of residential units; however, five of the sales were located on smaller lots of 0.16 to 0.34 acres, with no adjustment made for significantly smaller land areas. Petitioner provided insufficient probative evidence to prove that there was an impact on value resulting from the flood plain. While the Board finds that consideration can be given to Petitioner's Sale 6, with an adjusted value of \$608,500.00, the value indicated by the combination of Respondent's sales along with this sale exceeds the actual value placed on the property for tax year 2009.

**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 19 day of November 2010.

**BOARD OF ASSESSMENT APPEALS**

*Diane M DeVries*

Diane M. DeVries

*Sondra W Mercier*

Sondra W. Mercier

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

*Amy Bruins*  
Amy Bruins

