

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT & JANET BOARDMAN,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.53611</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 9, 2011, Debra A. Baumbach and Gregg Near presiding. Petitioner, Robert G. Boardman, appeared pro se on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 actual value of the subject property.

The parties stipulated to an actual value of \$28,000.00 for Lot 7 (Schedule Number R086481) for tax year 2009.

Subject property is described as follows:

**Lots 7 and 8, Larkspur, Colorado
Douglas County Schedule Nos. R086481 and R0086490**

The remaining subject property, Lot 8, consists of a vacant commercial lot.

Petitioners are requesting an actual value of \$26,500.00 for the subject property for tax year 2009. Respondent assigned a value of \$45,190.00 for the subject property for tax year 2009.

Petitioners presented no comparable sales but discussed Lot 8’s similarities to Lot 7, the lot previously part of this appeal. Lot 7 is also a vacant lot of similar size and features, is situated south of Lot 8, and forms a corner with Plum Creek Avenue and Frink Road. Plum Creek Avenue is a publicly maintained access. Frink Road is platted but not maintained. Lot 8 can be accessed only via Frink Road, which is limited.

Petitioners contend that Lot 7 was overvalued. Lot 8 is virtually the same property. Petitioners state Lot 8 is not usable for a building and one-third of the lot cannot be used due to floodplain issues.

Respondent's appraiser, Robert D. Sayer, a Certified General Appraiser, presented five comparable land sales ranging in price from \$5.20 to \$7.65 per square foot and ranging in size from 7,405 to 39,204 square feet. Respondent reconciled to a subject land value of \$2.10 per square foot. Mr. Sayer indicated Lot 8 was adjusted downward 60% for floodplain issues.

Respondent's Sale 5 occurred outside of the valuation dates, and although it was under contract during the valuation dates, no contract was submitted to allow for the Board to consider it. Accordingly, the Board finds Respondent's Sale 5 cannot be used.

Respondent's appraiser indicated a total adjustment of negative 40% and concluded to a value opinion of \$2.10 per square foot. Respondent's appraiser indicated that a 10% upward adjustment for a corner lot, as indicated in its report, was not correct. This suggests a total adjustment of negative 50%.

The Board's application of Respondent's negative 50% adjustment to Respondent's remaining sales produced a value range of \$2.73 to \$3.83 per square foot.

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

The Board was convinced by Petitioners' testimony that Respondent did not adequately adjust for the impact of the floodplain and limited accessibility on the subject property. Ninety percent of Lot 7 lies within either a 500-year or a 100-year floodplain. Eighty-six percent of Lot 8 lies within either a 500-year or a 100-year floodplain. Since Lot 8 also does not have direct frontage on a publicly maintained street, it is logically less accessible than Lot 7.

The Board finds the Respondent's appraiser failed to properly consider the subject property relative to its more limited access. The Board disagreed with Respondent's adjustment process and gave the final estimate of value minimal consideration.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$26,500.00, to reflect the more limited access to Lot 8.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$26,500.00.

The Douglas 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 15 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Neal

Gregg Neal

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

Amy Bruns

Amy Bruns

