

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JAMES L. PONZI</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55958</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 10, 2011, Gregg Near and Debra A. Baumbach presiding. Mr. James L. Ponzi appeared pro se. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**1589 Fairfax Court, Castle Rock, Colorado
Douglas County Schedule No. R0427384**

The subject property is located in a rural area of Castle Rock known as Castlewood Ranch. The subject is a 3,105 square foot two-story residence built by Pulte Homes. The basement area is 1,547 square feet with 1,133 square feet of finished area. There are 895 square feet of garage space. The residence was built in 2003 and is situated on a 32,670 square foot lot located near power lines.

Petitioner is requesting an actual value of \$440,845.00 for the subject property for tax year 2010 and Respondent has assigned a value of \$493,198.00.

Petitioner presented an indicated value of \$440,845.00 based on the market approach. Petitioner presented five comparable sales ranging in sale price from \$399,000.00 to \$475,000.00 and in size from 2,802 to 3,012 square feet. After adjustments were made, the sales ranged from \$419,323.00 to \$459,385.00.

Petitioner contends that the comparable sales that he provided are more appropriate in valuing the subject property. According to Petitioner, his Sale 1 is also a Pulte - built home and is located several blocks away from the subject. Petitioner contends that although Sale 1 was sold two months outside the base period, the sale took place well within the extended base period time frame. Petitioner argues that this sale is considered to be the most similar to the subject requiring the least amount of adjustment and is the only sale that is also a Pulte - built home. The other three comparable sales are located just north of the subject property and are considered by Petitioner to be more similar than the sales used by Respondent to value the subject.

Petitioner testified that he made adjustments for all differences affecting the subject's value. The quality of construction rating was based on Fannie Mae Guidelines with ratings varying from Q1 as the best quality rating through Q6 at the low end of the range.

Petitioner testified that he purchased the home new in 2003 as part of Pulte's inventory and the home included only standard tract amenities. There were no upgrades included and the subject is located within close proximity to power lines which is considered to adversely affect the value and marketability of the property.

Petitioner contends that Respondent's valuation methodology is flawed. According to Petitioner, Respondent used sales constructed by a superior home builder as opposed to a builder comparable in quality to Pulte. Petitioner argued that Respondent's comparable sales are superior in quality of construction, condition, upgrades and lot size. Petitioner pointed out that all adjustments made for differences are based on Respondent's usage of superior sales and that Respondent failed to adequately consider the affect of the power lines on the value of the subject. In addition, Petitioner argued that Respondent used sales with much larger lot sizes and larger square footage.

Petitioner is requesting a value of \$440,845.00 for tax year 2010.

Respondent presented a value of \$510,000.00 for the subject property based on the market approach. Respondent's witness, Duane J. Meyer, Certified Residential Appraiser, presented four comparable sales ranging in sale price from \$475,000.00 to \$610,000.00. After adjustments were made, the prices ranged from \$474,451.00 to \$574,283.00.

Mr. Meyer considered the sales he selected to be the most similar to the subject in size, style, quality and market appeal. All of the sales required a minimal degree of adjustment and all factors affecting the value were considered in the analysis including any influence on the subject's value caused by the presence of the power lines. Mr. Meyer contends that there were a sufficient number of sales in the market area during the 18 - month base period. Mr. Meyer did not consider Petitioner's Sale 1 that was sold outside the base period.

Mr. Meyer contends that there is no market difference in builders in the area as they are similar in quality and upgrades. Mr. Meyer argued that Petitioner's sales were not considered as they all have limited views and smaller lot sizes compared to the subject. According to Mr. Meyer, the subject was valued at the low end of the range, taking into consideration any other factors affecting the value.

Respondent assigned an actual value of \$493,198.00 for the subject property for tax year 2010.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for 2010.

The Board was persuaded that there are three separate sub - markets located within the larger market area. There was insufficient evidence presented by either party to indicate that there is a considerable difference between the builders in quality and upgrades. Therefore, the Board was convinced that the largest difference in value ranges is attributed to lot size. The Board considered Petitioner's Sales 1 and 2 and Respondent's Sale 4 as the most similar to the subject in quality and acreage. Although Petitioner's Sale 1 sold slightly outside the tax base period, it is the most reliable sale to consider in valuing the subject property. It was built by the same builder and is the most similar in lot size.

The statute allows using sales in 6 month increments up to 5 years outside the 18 month base period if there are insufficient sales within the base period to consider in the analysis. Section 39-1-104(10.2)(a), C.R.S. The Board found that there were an insufficient number of sales supporting the lot size difference within the base period.

Further, the Board was convinced that Respondent made appropriate adjustments for differences in the subject's characteristics and the data presented by Respondent was supported by paired sales and regression analysis. The Board gave greatest weight to Petitioner's Sale 1, and equal weight to Petitioner's Sale 2 and Respondent's Sale 4, for a concluded value of \$452,282.00. In arriving to the concluded value, the Board placed 50% of the weight on Petitioner's Sale 1, 25% on Petitioner's Sale 2, and another 25% on Respondent's Sale 4.

The Board concluded that the 2010 actual value of the subject property should be reduced to \$452,282.00.

ORDER:

Respondent is directed to reduce the 2010 value of the subject property to \$452,282.00. The Douglas County Assessor is directed to change their 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 5th day of December, 2011.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink, appearing to read "Gregg Near".

Gregg Near

A handwritten signature in black ink, appearing to read "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.

A large, stylized handwritten signature in black ink, appearing to read "Milla Crichton".

Milla Crichton