

<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>ELLEN L. ANDREW,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>TELLER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 56142</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 18, 2011, MaryKay Kelley and Gregg Near presiding. Petitioner appeared pro se. Respondent was represented by Matthew A. Niznik, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**300 Elk Court, Divide, Colorado  
Teller County Schedule No. R0014294**

The subject property consists of a single family residential home with log frame siding and rock veneer constructed in 2009. The home is a ranch design with 2,922 square feet of living area above grade and an unfinished walkout basement containing 2,373 square feet. The home contains two bedrooms and 1.75 baths with radiant heat. The above grade main level of the home also contains a 540 square foot loft area finished as an open room. The home has two fireplaces, (one in the loft area), vaulted ceilings and an oversized two-car garage. The home is served by public electrical service, propane, a domestic well and an individual septic system. The home is located within Elk Valley Estates, a gated community..

All properties within Elk Valley Estates are subject to a perpetual conservation easement recorded in 1990. There are currently 19 improved parcels and 17 vacant parcels. Parcel sizes range from 19.95 to 35.49 acres.

Petitioner is requesting an actual value between \$350,000.00 and \$450,000.00 for the subject property for tax year 2010 in her petition to the Board. Respondent assigned a value of \$665,000.00 for the subject property for tax year 2010.

Petitioner presented one comparable sale within the base period obtained from the County's records. The records indicate the sale was a 1,749 square foot home with a 1,854 square foot basement containing 1,430 square feet of finish. The home was constructed in 2005 and is located on a 35-acre site. The County's records indicate the property sold via a warranty deed on May 14, 2008 for a price of \$805,000.00.

Petitioner referenced several properties within Elk Valley Estates and argued that Respondent's valuation of her property should be equal to the valuations determined by the mass appraisal.

Petitioner stated her property carried agricultural classification prior to completion of her home, that hay is grown and sold within the subdivision, and that classification should remain agricultural.

Petitioner testified that the home was incomplete as of the assessment date because it had missing doors and door sets, cabinets, floors, window and door trim, interior drapes and window treatments, incomplete plumbing, interior paint, landscaping and decking. The home was issued a Certificate of Occupancy on August 12, 2009 and should not have been valued at 100%.

Petitioner concluded to a 2010 actual value of \$350,000.00 to \$450,000.00 for the subject property based on the home's incomplete status.

Respondent's appraiser, Janet L. Brooks, a Certified General Appraiser, presented a value of \$665,000.00 for the subject property based on the market approach.

Ms. Brooks presented three comparable sales ranging in sale price from \$745,000.00 to \$835,000.00 and in size from 1,749 to 2,569 square feet. After adjustments were made, the sales ranged from \$694,001.00 to \$942,077.00.

Ms. Brooks' comparable sales contained gross adjustments ranging from 37% to 49% of the original sale price. (Note that the appraisal submitted incorrectly indicates a gross adjustment of \$307,311.00 to be only 13% of the sale price of \$835,000.00).

Ms. Brooks also presented six comparable land sales within the valuation period. The comparables range from 35.00 acres to 41.31 acres with a mean indication of \$7,047.00 per acre and a median of \$6,126.00 per acre.

Respondent adjusted the comparable sales from \$22,725.00 to \$60,600.00 for differences in the number of bathroom fixtures at \$7,575.00 per fixture. No distinction was made for any difference in contributory value due to bathroom fixture locations on the main floor versus the basement.

Respondent's witness testified that \$47,000.00 condition adjustments reflected differences in age.

Respondent's appraiser testified that all adjustments were derived from the market but stated that information from the mass appraisal process was applied in the adjustment process.

Respondent's witness considered the home's construction to be complete; only minor items remained unfinished, and a Certificate of Occupancy was issued prior to the assessment date.

Respondent assigned an actual value of \$665,000.00 to the subject property for tax year 2010.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2010.

The Board concurs with the Respondent's classification as residential due to the existence of the improvement. The sale of hay from Elk Valley Estates benefits the Homeowners' Association, not the subject parcel.

The Board finds Respondent's appraisal to be less reliable due to the following; the use of mass appraisal data, the use of actual values to compare acreages, and excessive line-item adjustments. It finds no support for the following adjustments; acreage, design (the subject is not a raised ranch, its second floor loft should have been included in prime living space, and design adjustments are not supported); and condition (age and condition adjustments are not related).

The Board is persuaded that recalculation of Respondent's appraisal is warranted: deleting acreage, design and condition adjustments; and applying lower adjustments to bathroom count and porches/patios/decks. Also, the Board considers the house to have been less than 100% complete; despite having been awarded a certificate of occupancy, its unfinished status is likely to reduce marketability and value.

Recalculation of Respondent's appraisal, including a subjective adjustment for incomplete construction, does not indicate a value lower than that assigned.

**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).

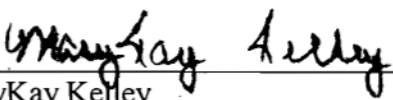
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

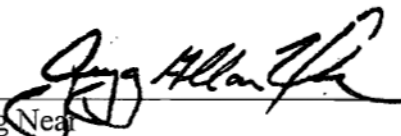
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

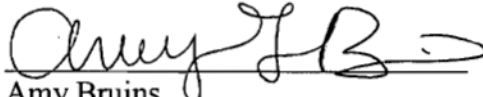
**DATED and MAILED** this 16 day of May 2011.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
MaryKay Kelley

  
\_\_\_\_\_  
Gregg Neal

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

  
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Amy Bruins

