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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN MICHAEL AND GAYLA M. WALKER,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p> | <p>Docket No.: 57488</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on March 21, 2012, Debra A. Baumbach and Diane M. DeVries presiding. Petitioners appeared pro se. Respondent was represented by Robert D. Clark, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2009.

Subject property is described as follows:

**5017 Vermillion Drive, Castle Rock, Colorado
Douglas County Schedule No. R0429496**

The subject property is a ranch style residence with a walkout basement built in 2008 with two bedrooms, two baths, and one fireplace. There are 1,897 square feet above grade, and 1,859 square feet below grade consisting of 1,196 square feet of basement finish, and a 462 square foot attached garage.

Petitioners are requesting an actual value of \$412,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$550,000.00 for the subject property for tax year 2009.

Petitioner, Mr. John Walker, testified that there is excessive noise and vibration of the subject home from passing trains. There is 102.2 yards distance between the subject property and the Burlington Northern Santa Fe Railroad. 15 to 20 trains pass the subject each day including 125 unit coal trains. The whistle volume is excessively loud. The home vibrates when trains pass.

Further, Mr. Walker, testified that there is excessive noise from Highway 85 which is 58.2 yards away from the subject. 1000 to 5000 vehicles pass each day including heavy trucks with engine brakes.

Mr. Walker stated that there are pungent odors emanating from the Castle Pines Metropolitan Utility District Sewage Treatment Plant which is located 350 yards to the northwest of the subject.

The property has the longest driveway in the area, 187.5 feet, making snow removal exceedingly extensive and expensive. The driveway does not qualify for the Village Lakes Home Association snow removal services.

The subject property is new construction and was purchased post base year.

Petitioners did not present any comparable sales. Petitioners compared the subject property to four of the comparable sales used by Respondent.

Respondent presented a value of \$590,000.00 for the subject property based on the market approach.

Respondent presented six comparable sales ranging in sale price from \$415,000.00 to \$804,200.00 and in size from 1,719 to 2,923 square feet. After adjustments were made, the sales ranged from \$416,310.00 to \$712,794.00.

Respondent's witness, Mr. Duane J. Meyer, Certified Residential Appraiser with the Douglas County Assessor Office, located six comparable sales in the same subdivision as the subject with the same or similar influences created by the Burlington Northern Santa Fe Railroad, Highway 85 and the sewage treatment plant as the subject property. Mr. Meyer made adjustments for time, number of bedrooms, number of bathrooms, basement square footage, finished basement square footage, walkout basement, garage, and land value.

Mr. Meyer testified that any adverse affects from the location to the sewage treatment plant and Burlington Northern Santa Fe Railroad are reflected in the overall sale prices of the comparable sales. Additionally, the assigned value also takes into consideration those factors.

Respondent assigned an actual value of \$550,000.00 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 determined that Respondent's witness appropriately relied on Colorado Revised Statutes, Division of Property Taxation Guidelines and case law in valuing the subject property for tax year 2009. The subject property is new construction and was purchased after the base year. Respondent's comparable sales all took place during the appropriate data gathering period of January 1, 2007 through June 30, 2008. All comparable sales have the same influences as the subject property.

The Board determined that the 2009 actual value of the subject property of \$550,000.00 is appropriate.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 10th day of April, 2012.



BOARD OF ASSESSMENT APPEALS

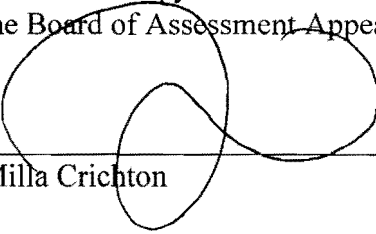
Debra A. Baumbach

Debra A. Baumbach

Diane M. DeVries

Diane M. DeVries

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



Milla Crichton