

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD B. QUIGLEY PROFIT SHARING PLAN,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 57583</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 9, 2011, James R. Meurer and Louesa Maricle presiding. Mr. Richard B. Quigley appeared on behalf of Petitioner. Respondent was represented by Michael A. Koertje, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2010.

Subject property is described as follows:

**6534 Legend Ridge Trail, Niwot, Colorado
Boulder County Schedule No. R0507395**

The subject property is a 0.76-acre vacant residential lot in the Legend Ridge subdivision in an unincorporated area of Boulder County. The subject property is an interior lot abutting open space at the rear of the site.

Petitioner is requesting an actual value of \$160,000.00 to \$200,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$393,800.00 for the subject property for tax year 2010.

Mr. Quigley testified that the 2007 burst of the housing bubble, the national recession, the 2007 stock market crash, and the May 2008 implementation of the Boulder County BuildSmart program all had dramatic negative effects on residential lot sales and sale prices. Mr. Quigley testified that these events caused lot sales to come to a near standstill and he concluded that all signals point toward declining land prices as of early 2007. Mr. Quigley contends that there was an

inadequate number of market value lot sales either in Legend Ridge or nearby similar subdivisions during the last 12 months of the 18-month base period to adequately reflect the negative impact of these events. Mr. Quigley further testified that without an adequate number of sales during the one year period between July 1, 2007 and June 30, 2008, the sales comparison approach cannot produce meaningful results, and thus cannot be used. Mr. Quigley cited time trending procedures listed in the Assessor's Reference Library ("ARL") as support for his conclusions. *See generally* ARL, Vol. 3, Ch. 2.

Mr. Quigley testified that Respondent's Sale 1 was included in a trade by the owner for a lot with a residence in the subject subdivision, that the recorded price was arbitrary and not reflective of market value. Mr. Quigley testified that as a trade, the transaction must be disqualified. Because Sale 1 was relied upon by Respondent in the time trend analysis and was also given most weight in Respondent's sales comparison analysis, both analyses should be discarded. With regard to Respondent's other sales, Mr. Quigley testified that the sale prices for Respondent's Sales 2 and 3 were among the highest paid within the subdivision, were likely not market value transactions, and should not be included as comparable sales. Mr. Quigley discussed BuildSmart, a program promoting high performing sustainable development in unincorporated Boulder County. Mr. Quigley testified that the higher building costs related to the program have had a negative effect on both the number of sales and on sale prices. Mr. Quigley presented an estimate of approximately \$150,000.00 that the BuildSmart program adds to the cost of development and contends that it should be deducted from lot values.

Mr. Quigley did not present alternative comparable sales. Instead, Mr. Quigley presented four alternative valuation approaches that did not rely on the sales comparison approach methodology. The alternative approaches generally involved adjusting the 2005 sale price of the subject property downward for the tap fee, the estimated cost of the BuildSmart program requirements, and downward time adjustments to reflect the estimated effects of the recession derived from multiple sources. One of the alternative approaches involved an estimate of value based on subdivision lot listings. Based on the alternative approaches, Petitioner concluded to a range of value for the subject property of \$160,000.00 to \$200,000.00 for tax year 2010.

Respondent presented a value of \$390,000.00 for the subject property based on the market approach. Respondent's witness, Mr. Stewart A. Leach, a Colorado Certified General Appraiser in the Boulder County Assessor's office, presented five comparable lot sales including three within the subject subdivision and two from a nearby subdivision. The comparable sales ranged in price from \$385,000.00 to \$551,200.00 and in lot size from 0.74 to 1.13 acres. The witness testified that the sale declaration documents filed with the county indicated that Sale 1 was not a trade and was a valid market transaction. Mr. Leach further testified that even if Sale 1 did involve a trade, it would not automatically be disqualified from use. The witness used paired sales analyses to estimate the adjustments to each sale for changing market conditions and location (interior versus perimeter lot location). Adjustments were also made where appropriate for prepaid water and sewer tap fees. Adjustments for other characteristics were considered for each sale, but the witness concluded that no additional adjustments were required. The adjusted sale prices ranged from \$384,000.00 to \$531,000.00. The witness testified that the most weight was given to Sale 1 in the conclusion of

value. Sale 1 indicated the lowest value of the sales analyzed. Based on the adjusted sale prices, the witness concluded to a market value for the subject property of \$390,000.00.

Respondent contends that the value of the subject property in an intervening tax year should be the same as the value for the first year of the assessment cycle, barring any significant change to the property. Respondent's witness testified that there was no change to the subject property between 2009 and 2010. Respondent cited Petitioner's unsuccessful petition to the BAA to reduce the value of the subject property for tax year 2009. Therefore, Respondent contends that the value for tax year 2010 should be the same.

Respondent asked that the Board upholds the assigned value of \$393,800.00 for the subject property for tax year 2010.

Respondent presented sufficient probative evidence and testimony to demonstrate that appropriate appraisal methodology was employed in the valuation of the subject property for tax year 2010.

"The actual value of such property...shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal." C.R.S. 39-1-103(5)(a).

"If a statistically sound sales sample cannot be obtained within the eighteen-month data collection period, sales can be collected in six-month periods for up to sixty months to acquire adequate comparable valuation data, pursuant to § 39-1-104(10.2)(d), C.R.S." *Assessor's Reference Library* Volume 3.

"Direct sales comparisons, with sales adjustments determined from market analysis, will be made." *Assessor's Reference Library* Volume 3.

The Board concludes that the cost and income approaches do not apply in the case of the subject lot. Vacant residential lots are typically valued using the market approach. Petitioner did not rely on the market approach to support the value requested.

The Board finds that because there were few sales within the 18-month base period, Respondent's use of sales that occurred within the 60-month extended base period was proper for both the sales comparison analysis and the time trending analysis. Petitioner's claim that Respondent's time trending analysis must be discarded because there were insufficient sales during the last 12 months of the base period is not supported by statute. In response to Board questions, Petitioner testified that he was not aware of any lot sales that occurred during the base period that should have been used or were otherwise excluded by Respondent to determine the time adjustment applied. Therefore, the Board concludes that Respondent has met the requirement to consider all qualified sales throughout the data collection period. The Board concludes that the ARL requires the Respondent to consider comparable sales that occurred throughout the base period, but the lack of sales during a portion of the base period does not invalidate either the time trending or the sales comparison approach methodology.

With regard to the BuildSmart program cost adjustment presented by Petitioner, the Board is not convinced that Petitioner's estimated \$150,000.00 adjustment accurately reflects the net cost of the program above and beyond typical construction requirements. Petitioner also did not present credible evidence that the BuildSmart program has in fact had a negative effect on lot sale prices. The Board finds that Petitioner's alternative valuation approaches are not supported by state statute.

The Board concludes that Petitioner failed to meet its burden to prove that the assigned value was incorrect.

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 26th day of August 2011.

BOARD OF ASSESSMENT APPEALS




James R. Meurer



Louesa Maricle

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



Milla Crichton

