

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KIMBERLY SCHWARTZ,</p> <p>v.</p> <p>Respondent:</p> <p>EL PASO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 57772</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 6, 2011, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner was represented by Scott Schwartz, Agent. Respondent was represented by George Monsson, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**4415 Constitution Avenue, Colorado Springs, Colorado 80915
El Paso County Schedule No. 64021-03-007**

The subject property consists of a wood frame one-story single-family residence containing a total of 1,962 square feet on the main level and a 1,962 square foot basement of which 1,922 square feet are finished. The residence has a total of five bedrooms and three bathrooms. The residence was built in 2006. There is a fireplace and a one-car garage. The residence is situated on a 2.37-acre site.

Petitioner requested an actual value of \$265,000.00 on the Petition but increased that amount at the hearing to \$293,790.25 for the subject property for tax year 2011. Respondent assigned a value of \$374,672.00 for the subject property for tax year 2011.

Petitioner's Agent, Mr. Scott Schwartz, presented four comparable sales ranging in sale price from \$194,261.00 to \$320,500.00 and in size from 2,621 to 3,433 square feet. After an adjustment was made for differences in land value, Mr. Schwartz concluded to a value of \$293,790.25.

Mr. Schwartz testified that the subject is located on Constitution Avenue that has busy traffic volume; that the curb, gutter and street surface are not adequately maintained by the City; and that no sidewalk exists on the subject side of the street. He testified that the subject lot has a steep driveway to the residence and that there are expansive soils in the area.

Petitioner is requesting a 2011 actual value of \$293,790.25 for the subject property.

Respondent presented a value of \$374,672.00 for the subject property based on the market approach.

Respondent's witness, Mr. Bob Ross, a Colorado Licensed Appraiser, presented four comparable sales ranging in sale price from \$240,000.00 to \$463,500.00 and in size from 1,518 to 2,940 square feet. After adjustments were made, the sales ranged from \$354,560.00 to \$494,841.00.

Mr. Ross testified that the residence is located at the top of a small hill on the lot resulting in minimal traffic noise at the residence level. He testified that Petitioner's comparable Sale One was a distressed foreclosure sale and that Petitioner's comparable Sale Four was a non-arm's length estate sale. Mr. Ross testified that the matter involving the deferred maintenance of the street improvements had minimal negative impact upon the subject's value. He testified that his comparable Sale One was selected as the best comparable sale. This sale was comparable to the subject in year of construction and lot value.

Respondent assigned an actual value of \$374,672.00 to the subject property for tax year 2011.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2011.

The Board placed greater reliability upon Respondent's value estimate. The four comparable sales were located in the same residential subdivision as the subject. The Board agreed with the Appraiser's adjustment analysis to the four comparable sales. The Board agreed with the Appraiser's final valuation placed in the lower portion of the adjusted sale price range.

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).

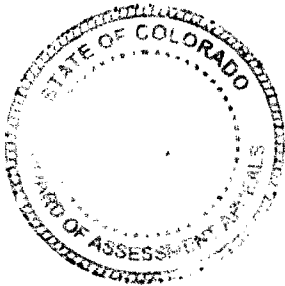
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 28th day of December, 2011.



BOARD OF ASSESSMENT APPEALS

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

Diane M. DeVries

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

Lyle D. Hansen

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

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

Milla Crichton