

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 57815

Petitioner:

MICHAEL J. RUFFATTO,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 1, 2012, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by Norman H. Wright, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**4545 South Holly Street, Englewood, Colorado
Arapahoe County Schedule No. 2075-07-1-04-010**

The subject property consists of a two-story brick and frame single-family residence constructed in 1990 with subsequent upgrades and improvement additions. The residence contains a total of 10,548 square feet of gross living area above grade, an 885 square foot basement of which 797 square feet are finished. The residence contains a total of six bedrooms and ten baths, six fireplaces, central air/conditioning, hardwood floors, South American Blue Marble granite countertops, custom paneling, wet bar, steam shower, a finished heated garage with cabinets, numerous patios, built-in outdoor pool and spa, pool house, play house, six-stall barn, storage barn, a large pond, sprinkler system and an irrigation well.

Petitioner requested a value on the Petition of \$5,800,000.00 but is requesting an actual value of \$6,000,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$9,023,500.00 for the subject property for tax year 2011 but is recommending a reduction to \$8,650,000.00.

Petitioner, Mr. Michael Ruffatto, testified that he has owned the property since 1988. He testified that he had added a continuous roof line over the residence and barn structures incorporating them into one structure; added a great room, a garage and a storage barn. Mr. Ruffatto testified that the residential improvements had received a minor refurbishment to the interior. He testified that the north portion of the lot has a horse pasture, pond and wetlands area which is located in the HUD identified flood plain. Mr. Ruffatto testified that he also added cement patios, vinyl fences and a mailbox. He testified that a studio apartment existed over the barn/garage area that was used by the horse and yard caretaker. He testified that the adjacent property at One Pond Road had sold for \$3.4 million dollars; that he had been inside the residence where the gross living area and interior finish was very similar to his residence. Mr. Ruffatto testified that there is a view of the tops of the Front Range mountains to the west.

Petitioner's appraiser, Mr. Stuart Turner, a Colorado Certified General Appraiser, presented six comparable sales ranging in sale price from \$2,575,000.00 to \$6,700,000.00 and in size from 7,229 to 14,115 square feet. After adjustments were made, the sales ranged from \$4,950,100.00 to \$7,169,500.00.

Mr. Turner testified that he concluded a land value at \$475,000.00 that was supported by comparable land sales and his comparable Sale No. Seven that was basically a land sale. He testified that comparable Sale One and comparable Sale Four were his best comparable sales because of similarity in gross living area. Mr. Turner testified that he attributed his land value conclusion of \$475,000.00 to the improved lot area of 5.5 acres. He concluded that the remaining 5.0-acre area was considered to be excess land area with a value conclusion of one-half of the improved area or \$237,500.00.

Petitioner is requesting a 2011 actual value of \$6,000,000.00 for the subject property.

Respondent presented a value of \$8,650,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$3,250,000.00 to \$6,700,000.00 and in size from 7,143 to 10,409 square feet. After adjustments were made, the sales ranged from \$8,223,920.00 to \$8,757,700.00.

Witness for Respondent, Ms. Merry Fix, Certified Residential Appraiser, testified that inspection of the subject had not been accomplished by any Arapahoe County Assessor appraisers since 1991. She testified that she was unable to accomplish an inspection of the subject site after several requests from Petitioner. She testified that over 90% of land sales in Arapahoe County that are over 5.0 acres sold for more than \$500,000.00 per acre and cited two land sales that supported her conclusion. Ms. Fix concluded a value of \$450,000.00 per acre for the surplus land area.

Respondent assigned an actual value of \$9,023,500.00 to the subject property for tax year 2011 but is recommending a reduction to \$8,650,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2011.

Since Ms. Fix was unable to accomplish a full and complete inspection of the property, the Board utilized the aerial photographs obtained by Petitioner and Respondent and interior photographs provided in Mr. Turner's appraisal. The aerial photographs show extensive site and building improvements such as the concrete patio and pool area, mature landscaping, two fully fenced horse corrals, and other site amenities that Ms. Fix did not have access to observe. The photographs from Mr. Turner's appraisal show good quality stalls with finished wood ceiling and walls, interior lighting and ceiling fans in the horse barn; extensive interior finish in the residence of wood loft, wood beam posts and rafters, good quality window designs, hardwood floors, a spiral staircase, good quality bathroom tile, cove-recessed ceilings, and a fully finished half story area.

Petitioner's witness, Mr. Scott R. Page of Metropolitan Appraisers, Inc. and a Colorado Certified Residential Appraiser, testified that the residence improvements were in good condition but needed upgrading, a complete remodel or demolition of those improvements. The Board disagrees. Mr. Turner's appraisal indicated that there was no functional or external obsolescence noted. He noted "...that the property shows normal wear and tear, bur does not appear to have any adverse physical deficiencies..." and, Mr. Turner states, "...The subject property appears to conform well to the neighborhood...". Mr. Turner also noted in his appraisal that the "...home is very livable and adds a great deal of value to the overall parcel...". He concluded that "...the highest and best use of the site, as improved, is believed to be as currently improved...".

Mr. Turner testified that his best comparable sales were Sale One with an adjusted sale price of \$7,169,500.00; a net adjustment of 7.0% and a gross adjustment of 38.4% and Sale Four with an adjusted sale price of \$5,288,200.00; a net adjustment of 39.2% and a gross adjustment of 74.2% of the sale price. The Board placed greater reliability upon Mr. Turner's comparable Sale One because of the lower net and gross adjustments.

The Board placed greater reliability upon Mr. Turner's lot value estimate of \$475,000.00 per acre for the prime lot area and \$237,500.00 per acre for the excess land area. The Board agreed with Mr. Turner's excess lot value because of the existence of the flood plain and wetlands area on the subject lot. The Board applied Mr. Turner's lot value analysis to Ms. Fix's three comparable sales. With those revised comparable sale prices and Mr. Turner's comparable Sale One adjusted sale price, the Board concluded to a value for the subject of \$7,000,000.00.

The Board concluded that the 2011 actual value of the subject property should be reduced to \$7,000,000.00.

The Board is concerned about the issue of fairness for both Petitioner's and Respondent's appraisers to be able to develop fair, impartial and properly documented appraisals. Ms. Fix testified that she was unable to accomplish an inspection of the subject site, site improvements, building exteriors and the interior of the residence and barn after repeated contacts with Petitioner to establish a date and time for this inspection. Mr. Turner testified that he was allowed to complete a full

inspection of the subject for his appraisal. The Board concluded that this inability of Ms. Fix to accomplish the inspection gave an unfair advantage to Petitioner's position and value conclusion.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$7,000,000.00.

The Arapahoe 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).

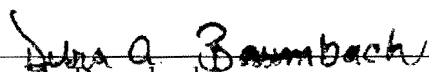
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 22nd day of March, 2012.

BOARD OF ASSESSMENT APPEALS


Debra A. Baumbach

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.



Milla Crichton

