

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JIRI AND NANCY E. MRACEK,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 57934</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 24, 2012, Diane M. DeVries and Lyle D. Hansen presiding. Mr. Jiri Mracek appeared pro se on behalf of Petitioners. Respondent was represented by Douglas Edelstein, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Mr. Edelstein objected to the admission of Petitioners' Exhibit One, an appraisal accomplished by Mr. Kendall West, if the appraiser is not present or available by telephone to testify. Mr. West testified about his appraisal by telephone. Mr. Edelstein objected to the admission of Petitioners' Exhibit Two that contained a written transcript dated April 25, 2012. Chair DeVries stated that Petitioners could testify to the transcript contents, if necessary. Ms. DeVries admitted Petitioners' Exhibits One into the record and Exhibit Two into the record stating that the Board will give the appropriate weight to this document that the Board deems necessary.

Mr. Mracek objected to the admission of Respondent's Exhibit A because he had not received the document in the Board Rule 11 ten-business day requirement but stated he received it in nine business days. Chair DeVries asked Mr. Mracek if his position was harmed by the one-day delay. Mr. Mracek stated that his position was not harmed and that he was able to review the document in time for the hearing. Chair DeVries admitted Respondent's Exhibit A into the record.

Subject property is described as follows:

**2449 West 111th Place, Westminster, Colorado 80234
Adams County Schedule No. 01719-08-1-09-018**

The subject property consists of a two-story wood frame single-family residence built in 1997 and containing a total of 1,688 square feet of gross living area above grade; a 734 square foot walk-out basement of which 565 square feet are finished. The residence has three bedrooms, three bathrooms, a fireplace and a small porch. The residence is situated on a 5,000 square foot lot.

Petitioners are requesting an actual value of \$228,305 for the subject property for tax year 2011. Respondent assigned a value of \$243,882 for the subject property for tax year 2011.

Petitioners' appraiser, Mr. Kendall West, a Colorado Certified General Appraiser, presented three comparable sales ranging in sale price from \$218,900 to \$250,000 and in size from 1,524 to 1,823 square feet. After adjustments were made, the sales ranged from \$227,000 to \$228,400.

Mr. Mracek testified that the value assigned to his property by the Adams County Assessor and the subsequent real estate taxes were higher than values and taxes assigned to comparable residential properties in the same area.

Mr. West testified that he accomplished a comparable sales' search of the area for sales occurring during the period of January 1, 2009 to June 30, 2010. He testified that the subject is located in a small area in the Cedar Ridge Subdivision that was constructed in 1997, whereas, the surrounding neighborhood residences were built in the 1990 to 1994 period. He testified that he concluded that the residential real estate market was in decline and that approximately 50% of the residences in the area were distressed sales. Mr. West concluded that it was appropriate to use distressed sales in his valuation analysis where comparable sales one and two were foreclosure sales and comparable sale three was a "short" sale. He testified that he accomplished a broader area search for non-distressed sales and that he found none that could be considered comparable to the subject in physical characteristics. Mr. West testified that he did not accomplish a negative adjustment to the three comparable sales to recognize a declining real estate market. He concluded a market value estimate of \$228,000 for the subject.

Petitioners are requesting a 2011 actual value of \$228,305 for the subject property.

Respondent presented a value of \$250,000 for the subject property based on the market approach.

Respondent's witness, Mr. James Fuller, a Colorado Certified Residential Appraiser for the Adams County Assessor, presented three comparable sales ranging in sale price from \$237,500 to \$249,900 and in size from 1,682 to 1,710 square feet. After adjustments were made, the sales ranged from \$250,355 to \$255,115.

Mr. Fuller testified that each of his three sales was adjusted downward for personal property included in the sale and for a time adjustment. He testified that he did not know the amount of adjustment for each of the two categories and that the time adjustment had been accomplished by another employee of the Adams County Assessor. Mr. Fuller testified that he expanded his comparable sale search area to find non-distressed sales to support his value estimate. He testified

that the location economics of the comparable sales were comparable to the location economics of the subject. Mr. Fuller concluded to a market value estimate of \$250,000 for the subject property.

Respondent assigned an actual value of \$243,882 to the subject property for tax year 2011

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

The Board concluded that valuation errors were committed by both Mr. West and Mr. Fuller.

Mr. West concluded that approximately 50% of the real estate market in the subject area involved distressed property sales. However, 100% of Mr. West's comparable sales were in some form of distress in terms of motivation of sale. The Board concluded that Mr. West should have utilized at least one non-distress sale in his valuation analysis.

Mr. Fuller was unaware of the amount of the adjustment for date of sale on his three comparable sales. His comparable sale two was located a substantial distance from the subject and none of his comparable sales were located in the subject neighborhood. The Board concluded that the adjustment for date of sale should have been displayed in the adjustment grid with a discussion as to market trends that existed during the base period and information concerning the number of distressed sales in the area.

The Board concluded that an additional downward adjustment is warranted to the assigned value of \$243,882 to reflect the negative impact on real estate values from distress sales and market trends in the area. The Board concluded that the 2011 actual value of the subject property should be reduced to \$236,000.

ORDER:

The Petitioner is granted.

Respondent is ordered to reduce the 2011 actual value of the subject property to \$236,000. The Adams 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).

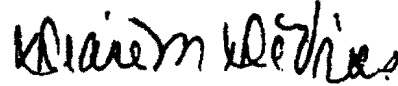
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 27 day of July, 2012.

BOARD OF ASSESSMENT APPEALS

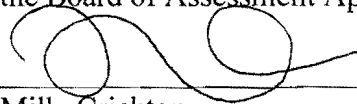


Diane M. DeVries



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

