

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL FLYNN,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58047</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 20, 2011, Diane M. DeVries and Gregg Near presiding. Petitioner, Michael Flynn, appeared pro se. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**119 Aspen Village
Aspen, Colorado
Pitkin County Schedule No. R015866**

The subject is a single family residence that consists of a 1,178 square foot manufactured home constructed in 1994 with a 1,815 square foot two level addition completed in 2006. The addition added 891.5 square feet to the upper level with 923.5 square feet on the lower level. The terrain on the lot allows a walk-out design for a total of 2,993 square feet of living area. Finish in the manufactured home is more modest with the addition containing better quality materials and workmanship. The home is in above average condition overall for the development.

Aspen Village Subdivision consists of a mixture of manufactured and mobile homes. The subject's site, located on a 7,104 square foot parcel, is one of the largest in the development.

Petitioner is requesting an actual value of \$325,000.00 for the subject property for tax year 2011.

Petitioner presented no comparable sales but chose to dispute the validity of Respondent's comparable sales and adjustments. Petitioner stated that Respondent's Sale One was inappropriate because it was across from an 850-acre open space. According to Petitioner, this sale was also influenced by a transaction date at the peak of the market and a buyer who was relatively indifferent to price. Petitioner addressed the remaining sales and pointed out that Respondent presented no transactions, other than Sale Four, that exceeded \$336,000.00. The value that Petitioner is requesting is \$325,000.00 because that is approximately what he has invested in the subject.

Respondent presented a value of \$434,000.00 for the subject property based on the market approach.

Respondent's witness, Lawrence C. Fite, a Certified General Appraiser, presented four comparable sales ranging in sale price from \$280,000.00 to \$650,000.00 and in size from 840 to 1,632 square feet. After adjustments were made, the sales ranged from \$405,392.00 to \$513,848.00.

Mr. Fite indicated that there had been no sales of homes of a similar mixed construction as the subject. Aspen Village is the only location in the county with a "Resident Occupied" designation. Because of the limited comparable sales available, Mr. Fite chose two manufactured homes and two mobile homes from Aspen Village for his analysis.

The comparable sales were adjusted for differences in features and were all adjusted downward by 40% for functional and economic obsolescence affecting the property because of the design.

Mr. Fite gave strongest consideration to the adjusted indication for Sale One and concluded that the previously determined assigned value was supported by the adjusted sales.

Respondent assigned an actual value of \$434,000.00 to the subject property for tax year 2011.

Petitioner contends that Respondent has not given adequate consideration of the difficulty of financing a home purchase in the subject's neighborhood due to zoning and income restrictions. According to Petitioner, Respondent's use of Sale One is inappropriate because there was no adjustment for this sale's better location; the property was not on the market and the sale price was an abnormality. The other sales used by Respondent have fewer neighbors than the subject and the view from the subject is only of other mobile homes.

Respondent maintains that the 40% downward adjustment to all the comparable sales reflects the difficulty of financing the subject. According to Respondent, Sale One likely sets the upper limit of value in the neighborhood, but the price and the view are not good reasons to ignore the transaction. The subject home is large and above average overall. Respondent also disagrees with Petitioner's value opinion as it is not all that different from the price paid for Sale Four, an 840 square foot mobile home constructed in 1965. Respondent contends that it is unreasonable to consider that home sale as equal to the subject without adjustments.

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

The Board understands Petitioner's frustration with the valuation process but agrees with Respondent that the Assessor must value all property. Respondent's Appraiser obtained sufficient sales to bracket the value estimate and attempted to adjust for the significant components of that value. The Board also agrees with Petitioner that insufficient consideration was given to the superior view and buyer motivation involved with Sale One, but also points out the final value determined for the subject was nearly \$80,000.00 lower than the adjusted sale price for Sale One.

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).

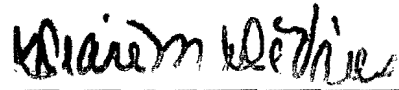
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

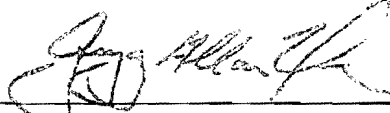
Section 39-8-108(2), C.R.S.

DATED and MAILED this 12th day of January, 2012.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



Gregg Near

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



Milla Crichton

