

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SVETLANA GODERSTAD,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58149</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 3, 2013, Gregg Near and James R. Meurer presiding. Petitioner was represented by Mills H. Ford. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**19 South Lane Englewood, Colorado
Arapahoe County Parcel No. 2077-11-3-05-012**

The subject is a custom, two-story, single-family house located in the Cherry Hills Village submarket of Arapahoe County. The house was originally constructed in 1957, and has had numerous updates and remodels since that date. In 2005, the original ranch style house was 80% demolished and rebuilt into the current two story structure. Another addition in 2009/2010 increased the size to the current 8,443 square feet of above grade living area per Arapahoe County’s records. There is also a 2,333 square foot basement, the majority of which is finished. There is an attached four car garage, the lot size is 38,724 square feet. and zoning is R-3 through Cherry Hills Village.

The most recent addition and remodel to the structure took place in 2010 and 2011 and consisted of the enlargement of the recreation room and master bedroom. The exhibits and testimony indicate that this remodel added approximately 1,031 square feet of living area to the house and the construction cost equated to approximately \$125,000 or \$121.24 per square foot.

The 8,443 square feet of gross living area referenced in the preceding paragraph and used by Arapahoe County includes the additional square footage resulting from this remodel.

Petitioner is requesting an actual value of \$2,850,000 for the subject property for tax year 2011. Respondent assigned a value of \$3,233,400 for the subject property for tax year 2011.

The significant difference between Petitioner's and Respondent's opinions of value results from the amount of living area that was actually usable or "in service" as of January 1, 2011. Petitioner, Ms. Goderstad, testified that due to construction delays and issues with the contractor, only 25% of the remodel was complete as of January 1, 2011 and that the additions were not useable space. Petitioner's representative, Mr. Ford, indicated that based on his experience within the market and discussions with Brokers, partially finished areas within a house did not contribute any value, and therefore these areas should not be included in the gross square footage of the structure. No documents or photographs were offered by Petitioner to substantiate Petitioner's estimate of the level of finish as of January 1, 2011.

Respondent's witnesses, Ms. Merry Fix and Ms. Michelle Doll of the Arapahoe County Assessor's Office, testified that based on a review of building permits, the new additions did constitute useable area as of January 1, 2011 and should be considered as part of the gross living area of the house for ad valorem tax purposes. Respondent's witnesses further testified that during the inspection of the property, Petitioner indicated that the space was useable in 2010.

Both Petitioner and Respondent provided appraisals on the subject. Petitioner's appraisal reflected a value of \$2,850,000 and Respondent's appraisal reflected a value of \$3,270,000. The major difference between these two estimates of value resulted from the square footage of the subject used in the analysis. Petitioner used 7,412 square feet which did not include the 2010 remodel and Respondent used 8,443 square feet and considered the remodel as useable space. Other than the appropriate living area square footage, the two appraisals were considered relatively similar by the Board.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005).

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Respondent's use of 8,443 square feet, which includes the new addition, most accurately reflects the condition of the property as of January 1, 2011. In addition, the Board does not agree with Mr. Mill's representation that this area has no value until it is 100% complete. However, based on a review of the building permits and testimony, the Board estimates that the remodel was approximately 90% complete as of January 1, 2011 and therefore concludes that some deduction for "cost to complete" is necessary to accurately reflect the condition of the subject on the specified date. Given the documented cost of the remodel of \$125,000 and assuming 10% of the project remains to be completed, the estimate of the cost to complete equates to \$12,500 ($\$125,000 \times 10\%$) and is deducted from Respondent's assigned value of \$3,233,400 resulting in a value of \$3,220,900 for tax year 2011.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$3,220,900.

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 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 18th day of April, 2013.

BOARD OF ASSESSMENT APPEALS

Gregg Near

James R. Meurer

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

Milla Crichton