

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DEAN B. AND KIMBERLY A. ZUCCARELLO,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58193</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 17, 2012, Debra A. Baumbach and MaryKay Kelley presiding. Dean B. Zuccarello appeared pro se on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**323 Paragon Way, Castle Rock, Colorado
Douglas County Schedule No. R0278811**

The subject is a 7,198 square foot two-story residence with a partially-finished walkout basement and four-car garage. Built in 2003, it is located on a 49,092 square foot site in the Castle Pines Village subdivision with golf course frontage.

Respondent assigned a value of \$3,030,000.00 for the subject property but is recommending a reduction to \$3,000,000.00. Petitioners are requesting an actual value of \$2,500,000.00.

Mr. Zuccarello described the subject's interior as inferior to other custom-built homes in the Village: his cabinets were purchased, not site built; stonework and trim is of lesser quality. He also discussed the economic and real estate climates during the base period: the nation was in the midst of a serious recession; the custom home market saw no activity; the subject property's assessment declined only 2.3% when it should have reflected a 20% or greater decline. Acknowledging that site-specific appraisals cannot be performed on every property and understanding the complexity of the equalization application, he considered Respondent's valuation to be flawed.

Mr. Zuccarello presented 2011 assessed values for properties on the subject street, noting decreases from the prior tax year as great as 25.5%. He argued that Respondent selected comparables with the highest sale prices, ignoring smaller homes in some cases and presenting sales in the dissimilar northern portion of the Village.

Mr. Zuccarello listed seven sales not used by Respondent, the average price per square foot of assessed values being \$335.72 and indicating a value of \$2,416,512.00 for the subject. He considered Respondent's Sale One to be the best indicator of value, its assessed value per square foot being \$348.23 or \$2,506,559.00 when applied to the subject. His requested value of \$2,500,000.00 is based on these analyses.

Respondent presented a value of \$3,000,000.00 for the subject property based on the market approach but without an interior inspection. Respondent's witness Duane J. Meyer, Certified Residential Appraiser, presented six comparable sales ranging in sale price (minus personal property and other concessions) from \$2,267,000.00 to \$3,615,000.00 and in size from 4,419 to 6,616 square feet, all smaller than the subject. After adjustments were made, the sales ranged from \$2,454,025.00 to \$3,680,700.00. Mr. Meyer placed most weight on Sale One (on the subject street with golf course frontage) with support from Sale Six.

Mr. Meyer did not use Petitioner's seven sales in his market analysis: two were short sales; one was a foreclosure involving a trade; and the remaining properties were in inferior locations, considerably smaller, or with less appeal. He disagreed that the economy and real estate market were distressed throughout the base period but began a recovery toward the end. Short sales and foreclosures, per the Assessor's Reference Library, should not be compared unless arm's length transactions were unavailable, not the case here.

Mr. Meyer was unable to identify the disparity in assessed values or explain why neighboring homes' assessed values declined from 2009 to 2011 to a greater extent than the subject property. He noted that a site specific appraisal has been performed on the subject property but not on the others.

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

Petitioner used an equalization argument to support his requested value. The Board can consider an equalization argument if evidence or testimony is presented which shows that their assigned values were derived by application of the market approach and that each comparable was correctly valued. Since the assigned values of Petitioner's comparable sales were derived by a computerized mass appraisal, the Board gives limited weight to the equalization argument presented by Petitioner. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time, size, and a variety of physical characteristics. Value may, indeed, be higher or lower than the prior year's actual value but was

determined by comparison of sales of similar properties during the base period, which also reflects economic and market changes.

The Board finds that Respondent's Sales Four and Six are less than satisfactory comparisons because of their ranch elevations (larger footprint, higher construction costs, typically greater in demand and higher in market value). It is also convinced that adjustments should have been made for the non-golf course sites. The Board places greatest weight on Respondent's Sale One because of its proximity, golf course frontage, and size.

The Board concluded that the 2011 actual value of the subject property should be reduced to \$2,800,000.00.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$2,800,000.00.

The Douglas 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 25th day of May, 2012.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

Milla Crichton

Milla Crichton

