

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>LINDA JELINEK,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PITKIN COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 58221</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on December 31, 2012, Brooke B. Leer and Debra A. Baumbach presiding. Ms. Linda Jelinek appeared pro se via phone conference. Respondent was represented by Michelle B. Whisler, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**81 Danielson Dr, Aspen, Colorado  
Pitkin County Schedule No. R003791**

The subject property is situated on 2.26 acres with a 6,858 square foot custom residence originally built in 1980. The residence was constructed in two stages with an effective year built of 1990. The original portion contains 4,710 square feet of heated area with the balance built in 1994. The addition has not been completed. The residence contains five bedrooms and four and one half bathrooms. The subject property is located in the Starwood Subdivision gated community of Aspen. The subject has views of Aspen Mountain, Aspen Highlands, and Buttermilk Ski Resort.

Petitioner is requesting an actual value of \$3,150,000 for the subject property for tax year 2011. Respondent has estimated an actual value of \$4,850,000 for tax year 2011 by an appraisal prepared by Pitkin County but has assigned an actual value of \$4,329,300, which is the maximum value allowed by the Colorado Board of Equalization.

Ms. Jelinek did not present any sales data or an appraisal report to support her opinion of value. She did testify that her home needed several repairs, including roof repair/replacement,

window repair or sealing, boiler replacement, and replacement of carpet damaged by a bear intrusion. According to Petitioner, the total cost of the needed repairs was approximately \$97,000 or \$100,000, rounded. Ms. Jelinek also testified that she thought the land value has decreased in the area and that the Pitkin County Assessor has not adequately reflected the lower land values in the area.

Ms. Jelinek was aware of a sale of a home located at 876 Starwood Drive which occurred in April 2010, within the base period. This property is 13,543 square feet and has been completely remodeled. It was listed at \$18,000,000 and sold for \$9,500,000. She felt that this comparable suggested that her home was overvalued by the Pitkin County Assessor. Ms. Jelinek also testified that she had recently obtained a broker's opinion of value for her home because she was considering selling. The broker suggested that the house could sell for about \$3,500,000. This information, however, was provided to Petitioner after the valuation period.

Petitioner is requesting a 2011 actual value of \$3,150,000 for the subject property.

Respondent presented an appraisal prepared by Mr. Lawrence C. Fite, a Certified General Appraiser with the Pitkin County Assessor's Office. Mr. Fite appeared via the telephone. Mr. Fite's report indicated a value of \$4,850,000 for the subject property. Mr. Fite testified that only four sales had occurred within Starwood, the subject subdivision, during the valuation period. He used three of the four sales in his report. He also used two additional sales on McClain Flats Road. The sales ranged in sale price from \$2,450,000 to \$8,240,000. The sizes ranged from 1,773 to 9,079 square feet. Mr. Fite did not use the sale that Ms. Jelinek had referenced at 876 Starwood Drive because in his opinion it was not comparable because it was significantly larger than the subject. Mr. Fite thought Sales 3 and 4 were the most comparable to the subject. After his adjustments, the sales ranged between \$650 and \$834 per square foot. His value conclusion for the subject was \$4,850,000 or \$707.20 per square foot.

Mr. Fite indicated that the land value placed on the subject's 2.26 acre site was \$2,750,000. Sales 1 and 2 had lower land value allocations at \$2,000,000 and the land allocations of the remaining comparables were more than the subject's land allocation. He testified that the land size is not the overriding factor to the land value allocation in Pitkin County but it is based more on the buildable square footage allowed and the views. The Board is not allowed to separate the land and improvements for valuation purposes and must look at the property in aggregate.

Respondent has made several inspections of the subject property in determining the overall condition. The last inspection of the subject was in 2010. Mr. Fite did not inspect the subject again for the preparation of the report dated August 8, 2012 with a valuation date of June 30, 2010. Ms. Jelinek had indicated to Mr. Fite that there had been no major changes since the 2010 inspection.

Mr. Fite went towards the lower end of the three adjusted sales in Starwood that had an average adjusted price of \$4,876,000. Because of the deferred maintenance and the unfinished status of the home, Mr. Fite concluded to a value for the subject as of June 30, 2010 of \$4,850,000 or \$707.20 per square foot. Mr. Fite indicated in his report that sales data was

limited and none of the five sales was an exact match in terms of size, quality and location; however, the comparables nevertheless presented a reasonable estimate of value for the subject.

The Board considered the adjusted sales prices per square foot of the three sales in Starwood. They ranged from \$650 per square foot for Sale 3 which is a considerably larger home at 9,079 square feet and Sales 1 and 2 between \$728 and \$755 per square foot for homes of 2,314 and 1,773 square feet, respectively. Considering the subject's unfinished areas and deferred maintenance items of about \$100,000, the Board favors using a value per square foot for the subject of \$700 per square foot, which is reasonable in relation to the other three adjusted sales in Starwood. Applied to the subject's 6,858 square feet, this is a value of \$4,800,000, rounded. This value is supportive of the Pitkin County Assessor's value of \$4,850,000.

### **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 25th day of January, 2013.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Brooke B. Leer*

Brooke B. Leer

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

*Milla Crichton*

Milla Crichton

