

<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>CATHARINA SCHNITKER AND MARTIN PISZCZALSKI,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 59565</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 3, 2012, Debra A. Baumbach and MaryKay Kelley presiding. Martin Piszczalski appeared pro se on behalf of Petitioners. Respondent was represented by Michael A. Koertje, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**7112 Cedarwood Circle, Boulder, Colorado  
Boulder County Schedule No. R0071544**

The subject is a 2,614 square foot residence with an unfinished basement and attached garage. It was built in 1978 on a 4,658 square foot lot in the Fountain Greens Subdivision.

Respondent assigned a value of \$448,000. Petitioners are requesting a value of \$350,000.

Petitioners purchased the subject property May 21, 2010 for \$325,000. Mr. Piszczalski based Petitioners' requested value of \$350,000 on this transaction, considering it to provide the best evidence of market value.

Mr. Piszczalski disagreed with Respondent's argument that the sale of the subject property reflected distress. It was not a quick sale, having been marketed for three years by three different Realtors. It was purchased for a fair price in an open market. Buyers and sellers were typically motivated and well informed.

Petitioner presented two comparable sales: 7239 Siena Way (Unit B), which sold for \$325,000 in September of 2009; and 5450 La Plata Circle, which sold for \$369,500 in June of 2010. No adjustments were made to the sales.

Mr. Piszczalski expressed dissatisfaction with the appeal process. He noted that the assigned value for his property in 2010 was 40% higher than the actual sale price.

Respondent presented a sales comparison analysis supporting the assigned value of \$448,000. Respondent's witness, Lori Freedman, Certified General Appraiser, presented five comparable sales ranging in sale price from \$395,000 to \$589,900. After adjustments were made, the sales ranged from \$417,257 to \$534,847. Ms. Freedman considered Sale Two, with an adjusted sale price of \$534,847 to be most similar to the subject.

Ms. Freedman disqualified the sale of the subject property, acknowledging its long listing history and structural problems with a resulting stigma; although structural issues were resolved, marketability remained impacted. Ms. Freedman concluded that the transaction reflected distress on the part of the sellers.

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

The Board is persuaded that the sale of the subject property occurred under distress and that structural issues affected marketability even after they were satisfactorily addressed.

In review of Petitioners' comparable sales, 7239 Siena Way (Unit B) is discarded because it is a condominium and dissimilar to the subject's detached patio home on a single-family lot. 5450 La Plata Circle is discarded because of its dissimilar location and school district.

In review of Respondent's comparable sales, Sales Four and Five are discarded for their larger lot sizes and Sale Three for its golf course frontage. Sales One and Two are most similar to the subject with adjusted values of \$444,775 and \$534,847. Although the witness did not reconcile to an indicated value independent of the assigned value, the Board is convinced that the assigned value is supported.

### **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 14th day of August, 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

