

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BERNARD CARPENTER,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 60744</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 24, 2012, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2012 actual value of the subject property.

Subject property is described as follows:

**8896 Aspen Leaf Court, Littleton, Colorado
Douglas County Schedule No. R0439764**

The subject is a 2.88 acre site within the 44-lot gated Cherokee Ridge Estates, which lies in a rural area approximately ten miles northwest of Castle Rock. It enjoys a greenbelt premium and mountain views. Open space borders the subdivision on the east and north. A law enforcement firing range sits approximately one-half mile away.

Respondent assigned a value of \$235,000 for tax year 2012. Petitioner is requesting a value of \$113,000.

Petitioner presented 25 lot sales, five of which occurred within the subject subdivision and averaged \$77,000. Because the subject is not bank-owned, he added 33% to reflect his estimated difference between the foreclosure and arm's length markets. He also added a \$10,000 margin and concluded to a value of \$113,000 for the subject site. Mr. Carpenter noted that the property is now listed for \$100,000.

Mr. Carpenter discussed the property's significant increase in taxes since his 2006 purchase, due in part to the additional mills levied for a metropolitan water district (assumed to be for a fire protection cistern). He would not have purchased the site had he known taxes were going to roughly double.

Mr. Carpenter also noted the significant increase in subdivision lot values since present worth discounting was discontinued in 2009 when the 80% threshold of lot sales was met. At time of purchase, he was not aware that discounting was to be applied and did not learn of it until 2011. He remarked on the marked increase in actual values when discounting was eliminated and questioned the increase during a period of a distressed real estate market and overall value decline.

Respondent's witness, Virginia K. Wood, Certified Residential Appraiser, presented a market analysis with three comparable sales located in competing subdivisions (no Cherokee Ridge sales occurred during the base period). All three carried qualitative adjustments plus a \$15,000 adjustment for the subject's proximity to the firing range. The analysis did not conclude to an indicated value but rather supported the assigned value per the BOE.

Ms. Wood discussed the methodology for present worth discounting, testifying that it occurs during intervening tax years and reflects sales to end users until an 80% threshold is met.

Ms. Wood agreed that the subject subdivision's tax mills are greater than other projects, suggesting the project's fire protection cistern as one reason.

Ms. Wood, acknowledging the subject's current list price as \$100,000 (list date of May 25, 2011), noted its list price during the base period as \$359,000.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2012.

Both state constitution and statutes require use of the market approach to value for residential property. Only four of Petitioner's 25 sales occurred during the base period, and two of them were used in Respondent's appraisal. Petitioner analyzed five Cherokee Ridge properties, all of which sold post-base period. Petitioner did not present a market approach to value.

The Board finds Respondent's appraisal less persuasive than an analysis with quantitative adjustments and a value conclusion. The Board heard sufficient testimony from both parties that suggests significant influence on the overall market by bank-owned properties and the absence of Cherokee Ridge sales during the base period. It also considers the project's higher mills and taxes and the nearby firing range to be significant marketing factors. The Board finds that Sale One is most similar to the subject but superior in size and is not impacted by the firing range.

The Board concluded that the 2012 actual value of the subject property should be reduced to \$175,000.

ORDER:

Respondent is ordered to reduce the 2012 actual value of the subject property to \$175,000.

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



DATED and MAILED this 31st day of January, 2013.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

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