

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner: BILL J. HARRIS,</p> <p>v.</p> <p>Respondent: JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 61330</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 7, 2013, Diane M. DeVries and Debra A. Baumbach presiding. Petitioner was represented by Ms. Joyce Regehr. Respondent was represented by David Wunderlich, Esq. Petitioner is protesting the 2012 actual value of the subject property.

Subject property is described as follows:

**29820 Troutdale Scenic Drive
Evergreen, CO 80439
Jefferson County Schedule No. 040230**

The subject property is a wood frame cabin built in 1950. The cabin is situated on a one acre metes-and-bounds parcel located near the Troutdale Glen Subdivision. The subject property consists of one bedroom, one bathroom, living area and kitchen area. There is no basement and only a partial foundation under the structure. The function and condition of the well and septic system is unknown and there is no functioning electricity.

Petitioner is requesting a value of \$85,000 for tax year 2012 and Respondent assigned an actual value of \$100,000 for tax year 2012.

Petitioner's witness, Ms. Joyce Regehr, testified that the subject property was purchased as a foreclosure sale. She described the subject as "uninhabitable." The witness stated that the overall condition of the property is poor and it has not been inhabited for years. There is no currently functioning electricity, water, heat or septic system. Several of the windows are boarded up and the

exterior siding is worn. The lot is steep with limited access and site utility. There is also a dispute with the neighboring property over encroachment of the driveway and the septic system. According to Ms. Regehr, the location is negatively impacted by light commercial operation as well as Highway 74 which is a main road through town.

Ms. Regehr contends that Respondent has overvalued the subject property by not adequately adjusting for differences affecting the value. According to Ms. Regehr, Respondent utilized sales that were superior in condition, location and amenities. Respondent made limited adjustments for differences in physical characteristics and the value conclusion was at the higher end of the market.

Ms. Regehr presented two comparable sales located in Evergreen, CO. Sale One was located at 29940 Fir Drive, sold in January 2010 for \$50,000 and was reported by the listing agent as a "fix-up". It consisted of 506 square feet and had public water and sewer and garage space. The building was situated on .28 acres. Sale Two was located at 29980 Fir Drive and was sold in December 2008 for \$71,500 as a bank owned property. It was comprised of 715 finished square feet. The listing agent reported this property as a "fix up" and having a garage area, gas gravity heat, and water. The lot size was .28 acres. There were no adjustments made to the sales and Ms. Regehr placed most weight on Sale Two as it was also a bank owned sale which reflected market perception at the time.

Petitioner is requesting a 2012 actual value of \$85,000 for the subject property.

Respondent presented an indicated value of \$105,000 for the subject property based on the market approach; however, Respondent supports the \$100,000 value assigned to the subject by the Jefferson CBOE.

Respondent's witness, Ms. Loretta I. Barela, Certified Residential Appraiser with the Jefferson County Assessor's Office, presented three comparable lot sales ranging in sales price from \$80,000 to \$117,000 and in size from 552 to 698 square feet. Sale One was adjusted for size, location, age, basement and wood deck. Sale Two was adjusted for size, location, age, heat, fireplace, utility building and covered porch. Sale Three was adjusted for sale, location, age, heat and wood deck. After adjustments were made, the sales ranged from \$83,200 to \$128,900.

All of the comparable sales used in Respondent's analysis were summer cabins and adjustments were made for all differences affecting the overall value. Upon inspection of the subject property, Respondent concluded to the lower end of the value range based on the subject's condition. The subject property is situated on a one acre parcel whereas Respondent's comparable sales are located on smaller sites (Sale One 0.149 acre, Sale Two 0.142 acres and Sale Three 0.247 acres). The largest adjustments were made for the differences in land area. Respondent attributed the majority of value to the land, not the improvement value. In support of the land portion in the valuation, Respondent also performed a search of vacant one acre land sales which indicated a much higher land value than the value assigned to the subject property.

Ms. Barela testified that she valued the subject property as residential use. The subject is considered a summer cabin with limited use because there are no functioning utilities. Ms. Barela pointed out that the subject property is habitable as it has a kitchen, a bathroom, a bedroom and a

living area. The cabin is situated on one acre parcel with several areas for a suitable building envelope. Ms. Barela contended that she took the subject's condition into consideration when performing her valuation and used most similar sales in the valuation process.

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

The Board gave consideration to all the comparable sales presented by both parties. The Board agreed that while Petitioner relied on one bank owned property, Respondent also relied on a sale (3265 Piney Ridge Rd) where the owner carried the note (versus conventional financing) which could be considered a non-arms-length transaction depending on the terms. The primary reason for the Board's consideration of all of the sales is that properties in poor condition have a difficult time obtaining conventional or FHA financing. All the sales with the exception of the bank owned Sale Two located at 29980 Fir Street used by Petitioner were cash transactions.

The Board agrees with Petitioner that the subject property needs considerable work to bring the property up to the level for use as a full time residence. However, the Board concluded that the majority of the value is in the land portion of the subject and not in the improvements. All of the comparable sales presented by the parties were located on smaller sites requiring considerable adjustments for differences. The Board was convinced the adjustments required for differences in condition, location and amenities were offset by the required adjustments for differences in land size supporting the assigned value.

ORDER:

The Petition is denied.

Respondent's Motion to Dismiss filed on August 9, 2013 is denied as moot.

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).

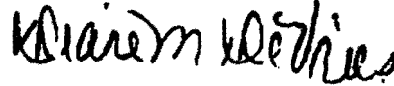
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 20th day of August, 2013.

BOARD OF ASSESSMENT APPEALS

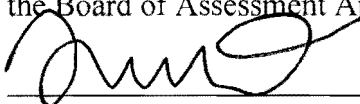


Diane M. DeVries



Debra A. Baumbach

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



Milla Lishchuk

