

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>STEPHEN AND LINDA GREENE,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 61824</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 12, 2013, Debra A. Baumbach and James R. Meurer presiding. Petitioner, Stephen Greene appeared pro se on behalf of Petitioners via a telephone. Respondent was represented by George Rosenberg, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2011.

Subject property is described as follows:

**5394 E. Otero Drive Centennial, Colorado
Arapahoe County Parcel No. 2075-31-4-12-009**

The subject is a two-story, brick and frame single-family house located in the Heritage Greens Subdivision in the City of Centennial. The house was constructed in 1989 and contains 3,409 square feet above grade. There is also a 1,654 square foot basement, the majority of which is finished. The house has a three car attached garage and is reported to be in good condition.

Petitioners are requesting an actual value of \$665,000 for the subject property for tax year 2011. Respondent appraised the property at \$737,000; however, assigned a value of \$733,400 for the subject property for tax year 2011.

Mr. Greene argued that the sale of his property in August of 2012 for \$665,000 reflected a downward trend in value for the subject, and that this sale should be given primary consideration by Arapahoe County in determining the subject's value for tax year 2011. Mr. Greene contended that the Board should take into consideration the volatility of the market when

valuing the subject. No other market data was provided by Petitioners to support the opinion of value.

Based on Mr. Greene's testimony, Mr. Rosenberg on behalf of Respondent requested that the Board dismiss the petition, given that Petitioners' sole support for value occurred outside of the statutory base period.

Section 39-1-104(10.2)(d), C.R.S. establishes the boundaries of the base period within which property valuation data must be collected when valuing property for the property tax purposes:

For the purposes of this article and article 9 of this title, "level of value" means the actual value of taxable real property as ascertained by the applicable factors enumerated in section 39-1-103 (5) for the one-and-one-half-year period immediately prior to July 1 immediately preceding the assessment date for which the administrator is required by this article to publish manuals and associated date. (Emphasis added).

Based on the Statute, the appropriate data gathering period for 2011- the tax year in question, extends from January 1, 2009 to June 30, 2010. The sale of the subject property took place in August of 2012, which was well beyond the relevant base period. Accordingly, the Board is prohibited by the Statute to consider the 2012 sale of the subject property when valuing the subject for 2011 tax purposes.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). The Board concluded that Petitioners failed to meet their burden of proving that Respondent's valuation of the subject was incorrect.

After careful consideration of the testimony presented at the hearing and in conformance with the Colorado statutes, the Board has no alternative but to dismiss the petition.

ORDER:

Respondent's motion to dismiss is granted.
The appeal is hereby dismissed.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 20th day of August, 2013.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

James R. Meurer

James R. Meurer

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

Milla Eishchuk
Milla Eishchuk

