

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WAYNE W. LORENZ,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62661</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 30, 2014, Debra Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**2412 South Yosemite Circle, Denver, Colorado
Arapahoe County Schedule No. 1973-27-3-16-020**

The subject is a vacant 0.19 acre residential site. It backs to the golf course within the gated Cherry Creek Country Club Subdivision.

Respondent assigned an actual value of \$275,000 for tax year 2013. Petitioner is requesting a value of \$200,000.

Mr. Lorenz presented 9293 East Harvard Avenue as a comparable sale. Located within the subject subdivision, it sold for \$185,000 on November 18, 2011. Petitioner's Exhibit 3 is a letter from the seller confirming the transaction to be arm's length.

Mr. Lorenz presented 13 properties within the subject subdivision as comparable to the subject site. They were involved in a bulk transaction for \$1,500,000. Application of a discount rate yielded a per-lot value of \$232,080.

Mr. Lorenz argued that Respondent's Sale One should be disqualified. Parties of two transactions were related, the foreclosing bank's managing partner who purchased the site and her husband, whose company purchased the site one year later. Mr. Lorenz considered the first transaction to be a "straw purchase" and deemed the transaction invalid.

Mr. Lorenz presented an equalization argument, comparing the actual value of 9257 E. Wesley Avenue for \$234,375 (lower than Respondent's comparable sales) to the subject's actual value of \$275,000.

Mr. Lorenz is requesting that his actual value remain at the 2011 level or \$200,000.

Respondent's witness, Jesse Bequette, Licensed Appraiser for the Arapahoe County Assessor's Office, presented a market approach with five comparable sales ranging in price from \$225,000 to \$320,000. All were golf course sites in the subject subdivision. He made adjustments for lot size and for sites with both front and rear golf course views. Adjusted values ranged from \$225,000 to \$320,000.

Mr. Bequette acknowledged that Sale One was a foreclosure transaction but that it fell within the range of remaining comparable sales, all being arm's length transactions. Because of the high marketability of the subject subdivision, he concluded that its foreclosure status had no impact on value and that no duress was indicated. He found no substance to Petitioner's accusation that this transaction was not valid.

Mr. Bequette noted that present worth discounting had been applied in prior tax years because more than 80% of sites remained unsold. Discounting was not applied for tax year 2013 because more than 80% of the sites had sold.

Mr. Bequette discussed Petitioner's comparable sale at 9293 East Harvard Avenue, which sold for \$185,000. Originally listed for \$209,000, it sold in 30 days, which he considered a "quick sale". Six sales occurred in the base period, all but this one at \$225,000 or higher; the \$225,000 transaction was a foreclosure. Mr. Bequette considered 9293 East Harvard Avenue to be an outlier and dismissed it from consideration.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The Board finds the \$185,000 sale to be an outlier. It falls well below all other sales within the base period. The Board agrees with Respondent that it was a "quick sale" and less representative of the marketplace than other transactions.

The Board is not convinced that Petitioner's analysis of 13 bulk sales concluding to \$232,080 per lot is valid. While this analysis might reflect transactions between developers and builders, it is not representative of arm's length transactions between buyers and sellers.

The Board can consider an equalization argument such as presented by Petitioner if evidence or testimony is presented showing that the assigned value of the equalization sales was derived by application of the market approach. Since that evidence or testimony was not presented, the Board gives limited weight to the equalization argument. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

The Board is not persuaded that Respondent's Sale One is not a valid sale or that a relationship between it and the second sale a year later. The Board finds no support for disqualification of Sale One because employees of the two sales were related.

Respondent's witness correctly completed a site-specific appraisal of the subject property, that being comparison sales of similar properties.

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-nine 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-nine 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 9th day of October, 2014.

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.

Mila Lishchuk
Mila Lishchuk

