

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>8 CHERRY HILLS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63443</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 11, 2014, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**8 Cherry Hills Park Drive, Cherry Hills Village, Colorado
Arapahoe County Schedule No. 2077-01-3-19-001**

The subject property is a custom single family residence located in the Cherry Hills Park subdivision, in the city of Cherry Hills Village. The subdivision consists of 24 high-end custom built homes. There is a private 24 hour security guard at the subdivision's single entrance. The subject residence is a one-story design with stone exterior and tile roof built in 2008. The home has 18,726 square feet above grade, and a 19,182 square foot walk-out basement including 17,822 finished square feet. The interior of the home includes; three bedrooms above ground all with sitting areas, 12 bathrooms, 10 fireplaces, two full kitchens, butler pantry, elevator and three laundry rooms. The basement is finished with a steam room, sauna, two wine cellars, billiard area, large bar, gym, basketball/racquetball court, two lane bowling alley, theatre area, large bar area and golf simulation room. The home has high quality fixtures, finishes, coffered ceilings, mosaic tile and upgraded wood trim.

The property also includes a 3,252 square foot garage with finished walls, heat and terrazzo flooring. There is a finished room above the garage used as storage area consisting of 2,350 square feet and 851 square feet of carport area. The exterior landscaping includes patios, decks, fountains, extensive landscaping and a 1,560 square foot swimming pool. There is a carriage house with 1,175 above grade living area and a 1,175 square foot full finished basement. The carriage house includes four bedrooms including those in the basement, four bathrooms, laundry area and kitchen. The fixtures and finishes are similar to that of the main residence. The site area consists of 3.88 acres and the subject is considered the largest home within Arapahoe County.

Petitioner is requesting an actual value of \$8,900,000 for the subject property for tax year 2013. Respondent assigned a value of \$13,482,000 for the subject property for tax year 2013 but is recommending a reduction to \$13,358,000.

Petitioner's witness, Mr. Todd Stevens, with Stevens & Associates Cost Reduction Specialists, Inc., presented three comparable sales supporting Petitioner's opinion of market value. The sales ranged in sale prices from \$5,250,000 to \$8,200,000 and in size from 8,346 to 12,298 square feet, excluding basement area. The sales ranged from \$629.04 to \$666.78 per square foot. After percentage adjustments were made for location, age, physical characteristics, and excess land, the sales ranged from \$448.05 to \$591.30 per square foot. Mr. Stevens concluded to \$499.81 per square foot or \$8,909,601 via the market approach.

Mr. Stevens testified the subject property is a high-end custom home unique in that it is the largest home in Arapahoe County with many features not widely seen in the market. He completed a full inspection of the subject property. Mr. Stevens stated he relied on three of the same sales also used by Respondent with the largest difference in how the square footage was calculated. Mr. Stevens considered his comparable sales the most similar to the subject in condition, quality, location, custom fixtures and finishes. In deriving the appropriate adjustments, he relied on builder records for the subject's square footage and the detailed data reported through Multi-List Service for each of the sales. According to Mr. Stevens, all factors were considered in the valuation process and adjustments were based on what could be supported through market analysis.

Mr. Stevens argued Respondent overvalued the subject property by making large line adjustments that were not supported through market analysis. According to Mr. Stevens, Respondent reported the subject has exceptional western views and made adjustments for differences in many custom features and amenities that the market considers intrinsic in high-end custom homes. According to Mr. Stevens, Respondent's adjustments were calculated through market extraction from sales considered homogenous in nature indicating different market perceptions. The net adjustments ranged from 48% to 196% of the sale prices of each of the comparable sale grossly overstating the indicated value.

In addition, Mr. Stevens presented an equalization argument comparing the subject property to four homes in the same market area considered generally similar. The assigned values for the four properties were significantly lower than the assigned value for the subject property with the main difference in the square footage. The subject property is valued higher than any other property in Arapahoe County.

Ms. Cyndi Roy, an Appraiser with Arapahoe County Assessor's Office, testified she is personally familiar with the subject property and several of the comparable sales presented in her analysis. She personally measured the subject property and the comparable sales with the exception of sale four located on Fairfax St. during the construction process. Ms. Roy contended Petitioner has reported an incorrect square footage for the subject property as well as for the comparable sales and stood by her measurements.

Ms. Merry Fix, a Certified Residential Appraiser with Arapahoe County Assessor's Office presented five comparable sales ranging in sale prices from \$4,000,000 to \$8,200,000 and in size from 8,294 to 12,959 square feet, excluding basement area. After adjustments were made for market conditions and differences in physical characteristics, the sale prices ranged from \$12,273,000 to \$14,926,446 and from \$655.40 to \$797.10 per square foot. Ms. Fix concluded to a value for the subject property of \$13,358,000.

Ms. Fix testified she completed a full inspection of the subject property. She relied on the Assessor's property record information for the quality rating, size, site differences and other adjustment calculation for the subject property and the comparable sales. The adjustments were calculated based on data derived from mass appraisal. Ms. Fix gave minimal consideration to information obtained from Multi-List Services (MLS) because he found the information contained in the MLS to be consistently incorrect. Ms. Fix made a \$200,000 across the board adjustment to the sales for geo thermal heating system. Ms. Fix based the adjustment on information obtained from the internet and on conversations she had with companies who install this type of heating system.

Ms. Fix addressed Petitioner's analysis citing that Mr. Stevens made percentage adjustments for differences that were not based on market extraction. According to Ms. Fix, Mr. Stevens did not take into consideration all the factors affecting the value. Ms. Fix believes the recommended lower value for the subject property is well supported.

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

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). The Board concluded Petitioner was able to establish that the subject property was overvalued. The Board acknowledges both parties had a unique set of circumstances in finding suitable comparable sales of custom high-end homes similar to the subject property. Both parties utilized three of the same sales with differences in the stated quality of the physical characteristics, size and appropriate adjustment calculations. Respondent made line adjustments for each difference as opposed to Petitioner's percentage adjustments.

The Board agrees that many of the subject's custom features are going to attract a certain buyer and may not be recognized by a wider market audience. The overall magnitude of Respondent's net adjustments ranged from 48% to 196% of the sale prices. The Board also found Petitioner's argument persuasive that many adjustments for differences in features would be considered inherent in custom high-end properties. Though Petitioner's net adjustments reflected a narrower range, the Board was not convinced all differences affecting the value were accounted for.

Additionally, Petitioner presented an equalization argument. The Board can consider an equalization argument (comparing actual values) if evidence or testimony is presented showing the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. The Board gives little weight to Petitioner's equalization argument as no such supporting evidence or testimony was presented.

The Board placed most emphasis on the sale located at 10 Cherry Hills Park Dr. (Petitioner's sale 1 and Respondent's sale 2). It is located within the subject's neighborhood and was under contract at the end of the study period reflecting the most current market conditions. It sold on July 17, 2012, and therefore its time adjustment was zero. The Board found Respondent's reported square footage to be more reliable as Respondent's witness personally measured the subject. The Board found Respondent's separate line adjustments of \$50,000 for racquetball/basketball court, \$200,000 for geo thermal heat and \$1,000,000 for one story design versus two-story design were not supported in the market and disregarded these adjustments. As to the adjustment for differences in construction quality of \$100,000 and designed construction type of \$500,000, the Board found these adjustments excessive based on the exterior and interior photos presented by Petitioner. The Board reduced the adjustment for brick construction type by half and the adjustment for construction quality by half for a total adjustment of \$300,000. The Board concludes that the 2013 actual value of the subject property be reduced to \$10,723,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$10,723,000.

The Arapahoe County Assessor is directed to change his/her 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-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 27th day of March, 2014.

BOARD OF ASSESSMENT APPEALS

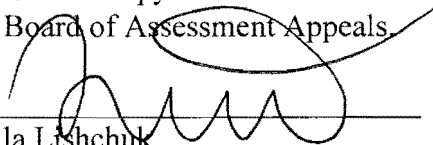


James R. Meurer



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

