

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>KIKHIAS INVESTMENTS LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63481</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 9, 2014, Brooke B. Leer and MaryKay Kelley presiding. Nagib Kikhia, co-owner, appeared *pro se* on behalf of Petitioner. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**Jefferson County Schedule Nos. 032989, 033296, 033320, 033325, 033330, 033368, 033513, 033580, 033583, 033675, 033755, 033777, 033786, 033798, 065345, 071880, 071881, 071882, 079220, 079222, 079223, 079226, 079227, 080596, 080598, 067135, 033088, 033103, 033127, 033180, 033200, 033290, 033328, 033386, 033399, 033437, 033494, 033521, 033603, 033643, 033733, 033759, 033760, 065367, 067137, 079228, 079229, 079230, 033253, 033638, 033694, 033748, 033757, 079221.**

The subject property consists of 54 undeveloped residential lots, 52 in the Meadowbrook Subdivision and two in the adjacent Fairview Subdivision. They range in size from 0.235 acre to 0.331 acre. 26 lots are fully or partially within a 100-year flood plain along the Massey Draw and Channel.

Respondent assigned the following values for tax year 2013; \$37,500 and \$43,130 for non-flood-plain lots, and \$7,500 and \$8,630 for flood plain lots. Petitioner is requesting values of \$25,630 for non-flood-plain lots and \$5,130 for flood plain lots.

Mr. Kikhia argued that taxes on the subject lots have increased since tax year 2012 by 47% to 71%. He has owned the lots for twenty years and recently began the development process, which will address flood plain issues (environmental study, water flow analysis, soil and water containment, and endangered species analysis). Mr. Kikhia anticipates that 14 lots will be sacrificed for drainage and a detention pond.

Mr. Kikhia offered a written analysis by Jehn Engineering, which anticipates 42-44 saleable lots after county approval of the revised floodplain, reconfiguration, and detention pond. A raw lot value of \$35,000 to \$40,000 after entitlement was estimated as was a finished lot value of roughly \$100,000.

Mr. Kikhia requested that the subject property be considered a single entity that is in the process of development. He argued that the subdivision should be valued as a whole. He requested that, during this development process, actual values for tax year 2012 be retained.

Respondent's witness Tammy J. Crowley, Certified General Appraiser, presented a market analysis using a typical lot size of 0.277 acre for the subject. She presented three comparable sales of developed lots ranging in sale price from \$100,000 to \$115,000 and in size from 0.252 acre to 0.298 acre. No adjustments were made. Greatest weight was assigned Sale One (\$100,000) because of its similar overall appeal. Additional support involved 47 nearby lots sold to Richmond Homes in 2006 for an average sale price of \$104,680.

Ms. Crowley then made deductions for flood plain location and for costs of development. She surveyed several Jefferson County builders to conclude to the following: after entitlement, \$50,000 was estimated to develop each site; and \$38,000 was estimated for flood plain mitigation. She concluded to values of \$50,000 for a non-flood-plain lot (\$100,000 raw land minus \$50,000 cost to finish) and \$12,000 for a flood plain lot (\$100,000 raw land minus \$38,000 for flood plain mitigation & \$50,000 cost to finish). These values support assigned values of \$37,500 and \$43,130 for non-flood plain lots and \$7,500 and \$8,630 for flood-plain lots.

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

The Board acknowledges the complex process of entitlement and development. However, Respondent is mandated by constitution and statute to value each individual lot as it existed on January 1 of 2013. Respondent cannot consider the lengthy and difficult processes of entitlement and development while valuing the individual lots nor can Respondent value the subdivision as a "whole". Arbitrarily assigning 2012 values for tax year 2013 does not conform to constitutional and statutory requirements.

Both constitution and statute require a market analysis in valuing residential lots. Petitioner did not present a market analysis. The Board did not find the report by Jehn Engineering that Petitioner presented as reliable evidence because the author of the report was not available to testify at the hearing and because there wasn't sufficient information in the report to support the values presented within. Furthermore, Petitioner did not provide sufficient credible evidence to dispute

Respondent's values. The Board relies on the only credible data provided, that being Respondent's appraisal. The Board found that Respondent's adequately supported the CBOE's value conclusions.

**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).

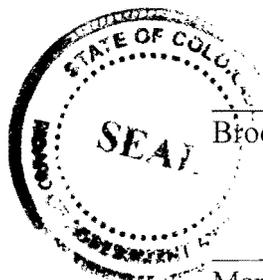
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 25th day of June, 2014.

**BOARD OF ASSESSMENT APPEALS**



*Brooke B. Leer*

Brooke B. Leer

*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 Lishchuk*  
Milla Lishchuk