

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THOMAS W. JOHANNES AND CONNIE J. JOHANNES,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 63505</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 31, 2014, Debra A. Baumbach and James R. Meurer presiding. Petitioners were represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax years 2011 and 2012.

Testimony from Docket No. 63503 was incorporated into this hearing.

Subject property is described as follows:

**174 Caprice Ct., Castle Rock, CO
Douglas County Schedule No. R0246211**

The property consists of a 29,055 square foot or 0.667 acre parcel of unimproved land located in the Town of Castle Rock. The subject is approximately 0.2 miles north of Wolfensberger Rd. and 0.33 miles to Interstate 25 access. The parcel is rectangular in shape, and topography is generally level. Zoning is Commercial-North Zoning Overlay District by the Town of Castle Rock which permits the existing outdoor storage.

Petitioners are requesting a value of \$103,145 for tax years 2011 and 2012. Respondent provided an appraisal reflecting a value of \$152,000 for each year; however is deferring to the Board of Equalization's (BOE) assigned value of \$143,822 for tax years 2011 and 2012.

Petitioners presented the following indications of value:

Cost:	Not Developed
Market	\$103,145
Income:	Not Developed

Petitioners' agent, Mr. Mike Shafer of Property Tax Refund Consultants, LLC provided three sale comparables. The sale prices of the comparables ranged from \$91,800 to \$886,352 or \$1.16 to \$3.45 per square foot, and all of the transactions occurred during the statutory or extended base periods. Mr. Shafer applied adjustments for parcel size, resulting in values ranging from \$1.39 to \$4.78 per square foot. The average of the adjusted values of the sales equated to \$3.55 per square foot which, once applied to the land area of the subject of 29,055 square feet, indicated an estimated market value of \$103,145 for the subject. Mr. Shafer also referenced five industrial land foreclosure transactions to further support his opinion of value.

During testimony, Mr. Shafer argued that Respondent's conclusion of land value was excessive, and that Douglas County did not account for the economic conditions that existed as of the valuation date. Mr. Shafer further argued that the sales used by Respondent were not properly exposed to the open market, that their locations were significantly superior to the subject, and that the adjustments to these comparables were unsupportable.

Respondent presented the following indications of value:

Cost:	Not Developed
Market	\$152,500
Income:	Not Developed

Respondent's witness, Mr. Stephen Snyder, an appraiser with the Douglas County Assessor's Office, provided four sale comparables. The sale prices of the comparables ranged from \$199,380 to \$450,000. Comparable No. 2 was adjusted for its location within a flood zone, and Comparables Nos. 3, 4, and 5 were adjusted for physical location. Mr. Snyder reconciled to a value of \$5.25 per square foot, which when applied to the square footage of the subject of 29,055 square feet, resulted in an opinion of value via the market approach of \$152,500. This value was then rounded to \$152,000 for purposes of a final opinion of value.

Mr. Snyder testified that Petitioners' comparable sales lacked the necessary adjustments to realistically compare them to the subject and further argued that there were no significant negative economic conditions that affected the subject for purposes of valuation.

The primary areas of disagreement between Petitioners and Respondent consisted of the respective comparables used in the analysis including their exposure to the market, the adjustments to these comparables, and the impact of any adverse economic conditions upon the subject parcel.

Petitioners presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax years 2011 and 2012 was incorrect.

Although the Board has concerns relative to the validity of the data provided by both parties, the Board concludes that reliability of the sale comparables presented by Respondent was successfully impeached by Petitioners. The Board concludes that the three comparables presented by Petitioners which averaged \$3.55 per square foot, combined with Respondent's Comparable No. 2 which actually contained ±125,000 square feet and sold for \$3.60 per square foot prior to any adjustment for the influence of a flood zone, should receive the most weight in the final value. Based on the above, the Board concludes to a value of \$3.55 per square foot or \$103,145 for the subject property for tax years 2011 and 2012.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners, based on a 2011 and 2012 actual value for the subject property of \$103,145.

The Douglas 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 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-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 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 16th day of April, 2014.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

[Signature]

James R. Meurer

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

[Signature]

Milla Lishchuk

