

<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.: 63716</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 13, 2014, MaryKay Kelley and James R. Meurer presiding. Petitioners were represented by Stephen Greene, *pro se*. Respondent was represented by George Rosenberg, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2012.

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, single-family frame and brick house located in the Heritage Greens submarket in the City of Centennial, Arapahoe County. The house was constructed in 1989, and includes 3,409 square feet of above-grade living area. There is a 1,654 square foot partially finished walk-out basement, and a three car garage. Lot size appears typical for the neighborhood, and the overall condition of the property is reported to be good. Respondent was unable to complete an interior inspection of the subject given that there has been a change in ownership of the property.

Petitioners are requesting an actual value of \$665,000 for the subject property for tax year 2012. Respondent provided an appraisal reflecting a value of \$735,000; however is deferring to the Board of Equalization's (BOE) assigned value of \$733,400 for tax year 2012.

Petitioners' witness, Mr. Stephen Greene, presented four comparable sales to support his opinion of value. All of the sales were residential properties located in the same subdivision as

the subject. Sale prices ranged from \$685,000 to \$825,000 and dates of sale ranged from March of 2010 to June of 2010. Two of the sales referenced by Mr. Greene were also used in the analysis provided by the County. Petitioners referenced the above grade living area price per square foot of these sales which ranged from \$197.98 to \$241.65. Petitioners made no adjustments to the sales and reconciled to a value of \$665,000 or \$195.07 for the subject based on a reconciliation of the prices per square foot. In addition, Mr. Greene testified that, relative to equalization, his property was valued higher than others found within the neighborhood.

Further, Mr. Greene testified that the appraisal and subsequent value did not accurately reflect the declining real estate market that occurred in 2008 and 2009, and the comparable that sold in 2008 used by Respondent overstated value. Mr. Green testified that his property was listed for sale during the statutory base period, and received minimal interest from potential purchasers.

Respondent's witness, Ms. Merry Fix, a Certified Residential Appraiser with Arapahoe County Assessor's Office, developed a market (sales comparison) approach and presented three comparable sales to support her opinion of value. All of the sales were located in the same subdivision as the subject, and sale prices ranged from \$667,000 to \$825,000 prior to adjustments, and \$710,086 to \$746,000 subsequent to adjustments. All of the sales occurred in the statutory or extended base period. The significant adjustments to the sales consisted of date of sale (time), construction quality, living area, baths, basement size/walkout and finish, fireplaces, patios, and miscellaneous. All of the sales were given equal weight in the conclusion of final value of \$735,000.

Ms. Fix testified that Mr. Greene did not consider time adjustments or adjustments for the differences between the physical characteristics of the subject and the comparables in his analysis.

Petitioners presented insufficient probative evidence and testimony to prove that the tax year 2012 valuation of the subject property was incorrect.

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). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales accurately reflect the market value for the subject property. The sales used by Respondent were all two story homes, were located in the same subdivision as the subject, and were representative of the market during the required statutory period. The net adjustments to these comparables ranged from -9% to a +12%, which was supported by testimony. The Board further concludes that the issues raised by Petitioner relative to market conditions were addressed by adjustments reflecting a declining market, and the date of sale of Respondent's Comparable No. 3 is permissible per statute when insufficient data within the 18-month base period is unavailable; both issues were adequately recognized in the concluded value.

Petitioners' methodology of comparison based on price per square foot and adjustments to price per square foot are not acceptable appraisal methodologies. It does not address the many

physical differences between the properties (site size and view, improvement size, age, quality and condition, and other features, for example).

In addition, the Board can consider an equalization argument (i.e. the actual values of neighboring properties) as support for the value of the subject property, once the subject property's value has been established using a credible market approach. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

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 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.

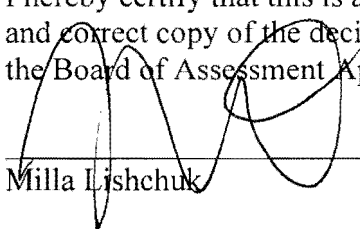
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 28th day of May, 2014.

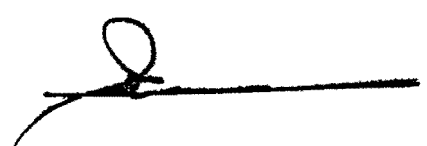
BOARD OF ASSESSMENT APPEALS


MaryKay Kelley

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



Milla Lishchuk



James R. Meurer

