

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT SARVIS AND JULIE A. GIONET,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63718</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 29, 2014, Brooke B. Leer and Debra A. Baumbach presiding. Mr. Robert Sarvis appeared on behalf of Petitioners. Respondent was represented by Mark Doherty, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**10453 Goose Haven, Lafayette Colorado
Boulder County Schedule No. R0103801**

The subject property is a newly constructed single family residence located in Goose Haven One Subdivision in Lafayette. The subdivision consists of 15 building sites ranging from 0.51 acres to 0.94 acres. The subdivision is located in a gated community with all lots bordering on small lakes with views of the foothills and Continental Divide. All the residences have access to the lakes for water sports. The subject residence is a two-story design with a stucco exterior built in 2012. The home has 4,965 square feet of above grade living area, and no basement area. The interior of the home includes four bedrooms, one full bathroom; three 3/4 bathrooms and two half bathrooms. There is an attached 894 square foot garage. The home is situated on a 0.57 acre site with 75 feet lake frontage. The subject property is considered to be in good condition.

Petitioners are requesting an actual value of \$380,737 for the subject property for tax year 2013. Respondent assigned a value of \$482,000 for the subject property for tax year 2013 but is recommending a reduction to \$471,000.

Petitioners' witness, Mr. Robert Sarvis, argued that Respondent had incorrectly reported the square footage for the subject property throughout the appeals process. Petitioners reported the square footage at 4,967 (or 4,965) based on the actual building plans for the subject property. During the hearing, Respondent's witness, Mr. Stewart Leach, stated that the square footage was corrected to 4,965 based on the building plans provided by Petitioners.

Mr. Sarvis stated Petitioners purchased the subject lot in 2009, began construction in 2012, and moved into the residence in 2013. Currently there is an outstanding building permit covering the site grading, landscape, drainage, concrete work and exterior doors. The subject property was approximately 25% complete during the valuation period. Mr. Sarvis testified he received his tax notice and the value assigned to the land portion was \$353,000 and an assigned value for the improvements of \$129,600 representing 25% complete. Mr. Sarvis contended Respondent has overvalued the subject property by not giving adequate consideration to the lack of site improvements, landscaping and by incorrectly valuing the land component.

Mr. Sarvis relied on three comparable sales (2, 3, and 5) out of the five sales presented at the CBOE hearing. The sales ranged in sales price from \$875,000 to \$939,000 and in size from 3,047 to 4,884 square feet. Adjustments were made for differences in square footage based on the corrected square footage of 4,967. Mr. Sarvis changed the square footage for Sale 1 from 4,521 to 4,884 based on conversions with the buyer and seller who confirmed the corrected square footage. Mr. Sarvis adjusted Sale 3 for a superior location. Adjustments were made for differences in land value, based on a stipulated land value of \$210,000 for tax year 2011. Mr. Sarvis increased the land value to \$220,000 for tax year 2013. Mr. Sarvis left the other adjustments derived at the CBOE level unchanged. In concluding to a final value for the subject property he calculated the average of the adjusted sales price by totaling the adjusted values. He divided the total value by three deriving a value for the subject property of \$862,947. From \$862,947 value he deducted the land value component of \$220,000 for a home value of \$642,947. From \$642,947, he allocated 25% reflecting the construction complete for a total improvement value of \$160,737(rounded). Adding back the land value of \$220,000, Mr. Sarvis concluded to a total value of \$380,737 for the subject property for tax year 2013.

Mr. Stewart A. Leach, a Certified General Appraiser with the Boulder County Assessor's Office, testified he completed an exterior inspection of the subject property. Mr. Leach presented three comparable sales ranging in sales price from \$875,000 to \$1,356,500 and in size from 3,047 to 5,354 square feet, excluding basement area. After adjustments were made for market conditions and differences in physical characteristics, the sale prices ranged from \$990,000 to 1,435,000. Mr. Leach concluded to a value for the subject property of \$990,000.

Mr. Leach testified all three sales were located within the subject's subdivision and share similar location. All the sales were recent and Sale 3 required a market change adjustment. All the sales were adjusted for differences affecting the overall value. Most weight was placed on Sale 1 as it abuts the subject property and shares similar location and views.

Mr. Leach testified he followed the guidelines set forth in the Assessor’s Reference Library (ARL) in determining percentages of completion for residential improvements concluding to a 25% complete for the subject property.

Mr. Leach presented nine land sales occurring within the 60-month extended base period. The comparable land sales ranged in sales price from \$240,000 to \$650,000, and in size from .295 acre to 1.00 acre. After qualitative factors were taken into consideration and adjustments for market change, the sales ranged from \$321,344 to \$618,605 or \$7.40 to \$48.14 per square foot. Mr. Leach gave most weight to land Sales 3, 5, 6 and 7. Mr. Leach concluded to a land value component of \$12.00 per square foot or \$297,950 for the subject property.

Mr. Leach presented the following allocation of land and building value to recognize 25% complete:

Market Value as if 100% Complete from Market Approach	\$990,000
Minus Land Value from Market Approach	<u>\$297,950</u>
100% Complete Building Value	\$692,050
25% Complete Building Value	\$173,013
Land Value from Market Approach	\$297,950
25% Complete Building Value	\$173,013
June 30, 2012 Value for Tax Year 2013	\$470,963
Rounded	\$471,000

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). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced Respondent’s recommended lower value of \$471,000 is supported and accurately reflects market value. The Board gave minimal weight to Petitioners’ methodology in using an average of the three sales in concluding to a value for the improvements as it is not an acceptable valuation methodology. The appropriate reconciliation of value is weighing each sale based on relative significance in relation to the subject property. The Board concludes Petitioners’ land value component is unreliable. Petitioners relied on a previously stipulated land value from 2011 tax period and increased it upwards slightly. A 2011 value determination reached by a stipulation at a lower level of appeal is not relevant to the determination of the subject’s 2013 value.

Colorado statutes set out methodology for establishing values for purposes of taxation. Pursuant to Section 39-1-103, C.R.S., residential property must be valued by the use of the market approach. Petitioners’ use of the 2011 stipulation as a base land value for determining the subject’s 2013 land value is not an acceptable valuation methodology. In addition, Petitioners did not present any refuting evidence that Respondent failed to adequately adjust the sales for differences or that Respondent’s land sales were not representative of market perception.

Respondent utilized sales within the applicable time period, within the subject's subdivision. All factors affecting the value were taken into consideration and adjustments were made. Respondent recommended a lower valuation based on the site-specific appraisal. Additionally, Respondent corrected the square footage.

The Board concludes that the 2013 actual value of the subject property be reduced to \$471,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$471,000.

The Boulder 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 13th day of May, 2014.

BOARD OF ASSESSMENT APPEALS

Brook B. Leer

Brook B. Leer

Debra A. Baumbach

Debra A. Baumbach

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

Milla Lishehuk

Milla Lishehuk

