

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EQUITY SECURED FUNDS, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63941</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 4, 2014 Louesa Maricle and Debra A. Baumbach presiding. Mr. Patrick Irving appeared *pro se* on behalf of Petitioners. Respondent was represented by Meredith P. Van Horn, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

- Vacant Land in Roxborough Park North
Littleton, Colorado**
- Lot 11, Douglas County Schedule No. R0026809**
- Lot 57, Douglas County Schedule No. R0027932**
- Lot 59, Douglas County Schedule No. R0030453**
- Lot 89, Douglas County Schedule No. R0420484**
- Lot 81-A-1, Douglas County Schedule No. R0438466**

The subject property consists of five residential vacant land sites located in Roxborough Park North Subdivision within Littleton, CO. The subdivision is bordered to the north by Chatfield State Park and Roxborough State Park to the south. Ravenna private golf course and Arrow Head public golf course also border the subject. The general topography is gently rolling terrain with varying views and rock outcroppings.

Lot 11 is a 0.689 acre site bordering Ravenna Golf Course with views of a fairway. Lot 57 is a 0.498 acre site adjacent to Lot 59 and is reported as a typical site with no adverse factors affecting

the building envelope. Lot 59 is a 0.507 acre site sloping downward toward a drainage area with limited access to the site. Lot 89 consists of a 0.638 acre site located partially within a drainage area and is affected by rock formations within the building site. Lot 81A-1 is a 1.09 acre site with approximately 50% of the site within a drainage area.

Petitioner is requesting an actual value of \$102,900 for Lot 11; for Lot 57 - \$59,700; for Lot 59 - \$51,800; for Lot 89 - \$61,064 and for Lot 81A-1 - \$65,000. Petitioner requested value for the subject lots for 2013 is \$340,600 ±.

Respondent assigned a value of \$138,000 for Lot 11; \$120,000 for Lot 57; \$108,000 for Lot 59; \$96,000 for Lot 89, and \$120,000 for Lot 81A-1.

Petitioner's witness, Mr. Patrick Irving, testified that the subject sites are located in Roxborough Park North Subdivision of Roxborough Park which is divided into three sub-markets known as Roxborough Park North, Roxborough Downs and Stonehenge. Mr. Irving claims that the sites located in Roxborough Park North are the most similar to the sites in Roxborough Downs in size, views, location and topography. The sites located in Stonehenge have always commanded higher purchase prices because they are superior in size, location, views and topography. Mr. Irving argued that overall prices of vacant land sites in Roxborough Park have been steadily declining during the base period and demand for sites has been nominal. According to Petitioner, the duration in marketing times has increased to years versus months for sales and listings within the subject area.

Mr. Irving argued that Respondent did not adequately consider the declining market conditions in the subject subdivision and utilized two superior sales in Stonehenge and one superior sale in Roxborough Park North. Petitioner claims Respondent did not sufficiently adjust the sales for their superiority to the subject sites in size, views, location and topography. In addition, Respondent made a minimal adjustment of 10% for the lack of access to Lot 59 and to Lot 89 for location in a drainage area affecting the building envelope.

Petitioner presented three comparable sales of vacant land sites ranging in sales price from \$25,000 to \$50,000 and in size from .17 acres to .39 acres. Mr. Irving described his Sale 2 of Lot 287-A2 that sold in 2010 for \$50,000 as the most comparable sale. Mr. Irving testified he concluded to base a site value of \$82,300 for Lot 11 and because the site is located adjacent to Ravenna Golf Course he applied an upward adjustment of 25% for a total value of \$102,900. Mr. Irving considered Lot 57 a typical site for the area and made no adjustments; he concluded to a total value of \$59,700. For Lot 59, Mr. Irving concluded to a base site value of \$60,900 and because of limited access, he applied a 15% downward adjustment for a total value of \$51,800. Mr. Irving concluded to a base site value of \$76,400 for Lot 89, and because the site is partially located in a drainage area he made a 20% downward adjustment for a total value of \$61,100. For Lot 81A-1, which is a 1.09 acre site and the largest of the five sites, Mr. Irving concluded to a base site value of \$130,000. Because the site is located directly in a drainage area affecting 50% of its utility, Mr. Irving applied a 50% downward adjustment concluding to a total value of \$65,000.

Petitioner requests a total value of \$340,600 for the subject parcels.

Respondent's witness, Ms. Virginia K. Wood, a Certified Residential Appraiser testified there were a limited number of similar vacant land sales during the study period. In selecting sales Ms. Wood utilized two sales within the statutory base period and one sale that took place in the extended period. The sales ranged in sales price from \$130,000 to \$162,500 and in size from 0.523 acre to 1.00 acre. Ms. Wood stated that in establishing a base site value of \$130,000 she gave the most consideration to Sale 1, Lot 56 because of the similar topography, views, location and size. Ms. Wood stated each lot was valued at \$130,000 base value prior to any adjustments.

Ms. Wood stated Lot 11 is located adjacent to Ravenna Golf Course and was adjusted upward 25% for a value of \$162,500. Ms. Wood testified she considered Lot 57 as a typical site for the area and made no adjustments to it concluding to a value of \$130,000. For Lot 59, Ms. Wood applied a 10% downward adjustment because of issues regarding access to the site and concluded to a value of \$117,000. Ms. Wood stated she adjusted Lot 89 downward by 20% to account for rock outcroppings within the building site and location partially within a drainage area affecting the building envelope concluding to a value of \$104,000. Ms. Wood testified that Lot 81A-1 is the largest of the five sites at 1.09 acres; however, it was not adjusted for size because half of the site is located in a drainage area. Ms. Wood concluded to a value of \$130,000 for Lot 81A-1.

Respondent concluded to a total indicated value of \$643,500.

Ms. Wood does not agree that Mr. Irving's sales are the most suitable sales to rely on in valuing the subject sites. Ms. Wood contends that Mr. Irving's three sales occurred within the extended base period, were much smaller in size than the subject lots, and Petitioner's Sale 1, Lot 263 in Roxborough was bank owned and sold below market value.

Petitioner presented insufficient 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). Petitioner and Respondent both presented a market analysis each utilizing three sales and made adjustments for differences affecting the value. The main difference between Petitioner's and Respondent's analyses was the comparable sales utilized and the concluded base site value prior to adjustments. After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments accurately represent market value for the subject property. Respondent utilized two sales within the statutory base period and one sale in the extended base period. Respondent's adjustments were reasonable and all factors affecting the value and site utility were considered in the analysis. Respondent's comparable sales support a base site value of \$130,000, prior to adjustments.

The Board reviewed Petitioner's three sales and gave minimal weight to them. All three sales occurred within the extended base period and were significantly smaller in size than the subject sites. Petitioner admitted that he placed no weight on Sale 1, Lot 263 because it was bank owned and sold below market value. Petitioner argued that Respondent utilized superior sales and did not give adequate consideration to decreasing values in the market area as a result of declining market

conditions. However, Petitioner did not provide the Board with refuting evidence supporting that lower site values are attributed to declining market conditions as opposed to the sales prices reflecting smaller site size. In addition, the Board was not persuaded by Petitioner's argument the subject subdivision is divided into three sub-markets reflecting different value ranges for each sub-market. The Board was convinced by Respondent's argument that the market recognizes selling prices of sites in the subdivision based on size, topography, location and views.

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 19th day of September, 2014.

BOARD OF ASSESSMENT APPEALS

Louesa Maricle

Louesa Maricle

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 Lishchuk

Milla Lishchuk

