

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 64899

Petitioner:

JEFFRY AND SUSAN STRAUSS,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on November 17, 2014, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner, Ms. Susan Strauss, appeared pro se on behalf of Petitioners. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Docket numbers 64899 and 64900 were consolidated for purposes of the hearing only.

Subject property is described as follows:

**10 Windover Road
Greenwood Village, Colorado 80121
Arapahoe County Parcel No. 2077-14-2-16-001**

The subject property consists of a two-story, excellent quality residence situated on two lots. The home has 8,194 square feet of above grade living area that includes four bedrooms and eight baths. Completed in 2005, the home also has a 2,070 square foot basement, including 1,845 square feet of finished area. A four car garage is accessed via a breezeway to the residence.

Petitioners are requesting an actual value of \$2,283,000 for the subject property for tax year 2013. Respondent assigned a value of \$2,746,200 for the subject property for tax year 2013 but is recommending a reduction to \$2,672,000.

Petitioner, Susan Strauss, presented five comparable sales ranging in sale price from \$1,710,000 to \$2,122,000 and in size from 5,172 to 6,244 square feet. After adjustments were made, the sales ranged from \$2,127,944 to \$2,310,592, including an additional downward adjustment for market conditions (time) made during the hearing. Petitioner applied adjustments to the comparable sales based on an analysis of the sales and interviews with real estate agents, and also gave consideration to adjustments applied by Respondent.

Respondent presented a value of \$2,672,000 for the subject property based on the market approach.

Respondent called Ms. Merry L. Fix, Senior Appraiser with the Arapahoe County Assessor's Office as the first and only witness. Ms. Fix presented three comparable sales ranging in sale price from \$1,719,800 to \$2,439,000 and in size from 6,004 to 6,966 square feet. After adjustments were made, the sales ranged from \$2,507,270 to \$2,826,716. Ms. Fix supported the adjustments made based on sales data collected by the Arapahoe County Assessor's Office. Net adjustments ranged from 12.0% to 41.0%, all upward.

Respondent assigned an actual value of \$2,746,200 to the subject property for tax year 2013.

Petitioners contend that because the subject has a large square footage, it is necessary to rely on sales from an expanded geographic area. Ms. Strauss testified that she had chosen three sales from The Preserve for comparison along with two sales that were in more proximate locations. Understanding the statutory requirement to apply an adjustment for changing market conditions, Ms. Strauss applied a downward adjustment of 0.002% per month; however, this downward adjustment was shown by the County to involve a typographical error. Respondent applied an upward adjustment of 0.002% per month, supported by the mass appraisal process. Correction of this error results in a range of \$2,294,306 to \$2,417,946 using Petitioner's sales. This results in net adjustments of 5.5% to 32.0%, also all upward:

| Sale # | 1 | 2 | 3 | 4 | 5 |
|-----------------------------|---------------|--------------|--------------|--------------|--------------|
| Sales Price | \$ 2,122,000 | \$ 1,710,000 | \$ 1,950,000 | \$ 1,800,000 | \$ 1,918,000 |
| Adjustment made | \$ 104,402 | \$ 37,620 | \$ 44,850 | \$ 91,800 | \$ 111,244 |
| Total % Adjustment | 0.049199811 | 0.022 | 0.023 | 0.051 | 0.058 |
| -0.002 | -24.59990575 | -11 | -11.5 | -25.5 | -29 |
| months applied | 24.6 | 11 | 11.5 | 25.5 | 29 |
| 0.002 | | | | | |
| Corrected adjustment | \$ 104,402.40 | \$ 37,620 | \$ 44,850 | \$ 91,800 | \$ 111,244 |
| corrected time adj. | \$ 2,226,402 | \$ 1,747,620 | \$ 1,994,850 | \$ 1,891,800 | \$ 2,029,244 |
| Other adjustments | \$ 116,886 | \$ 546,686 | \$ 405,442 | \$ 526,146 | \$ 321,188 |
| Final indication | \$ 2,343,288 | \$ 2,294,306 | \$ 2,400,292 | \$ 2,417,946 | \$ 2,350,432 |
| Net adjustment | 5.5% | 32.0% | 20.8% | 29.2% | 16.7% |

Respondent contends that it is necessary to stay within the subject's immediate neighborhood, despite the lack of sales of larger homes of a size similar to the subject. This resulted in large adjustments to the sales presented by Respondent's witness.

Both parties recognized the need to rely on sales that were most similar in size to the subject; however, neither party provided a sale of a larger property that would allow the Board to bracket the value of the subject. The lack of sales of large properties resulted in the requirement for both parties to make significant upward adjustments for size. As discussed during the hearing, the data might suggest that the large size of the subject presents a super-adequacy to the property. As neither party provided a sale bracketing the upper end of size, all eight sales presented are given consideration. However, only four of the sales received adjustments of less than 20%: Petitioners' sales 1 and 5 along with Respondent's sales 1 and 2, suggesting a range in value of \$2,343,288 to \$2,826,716.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013. Additionally, evidence and testimony was presented to prove that the subject property should be reduced to a value below Respondent's recommended value. Based on the four sales receiving the least adjustment, the Board concludes that a value of \$2,554,000 is supported.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners based on a 2013 actual value for the subject property of \$2,554,000.

The Arapahoe 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 24th day of November, 2014.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Sondra W. Mercier

Sondra W. Mercier

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

Milla Lishchuk

Milla Lishchuk

