

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner: GRIFFIN, MARK L. & HARRISON, JANIS L., v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65774</p>
<p><i>AMENDED ORDER</i></p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 22, 2015, Sondra W. Mercier and Debra A. Baumbach presiding. Petitioner, Mr. Mark Griffin appeared *pro se* on behalf of Petitioners. Respondent was represented by Benjamin P. Swartzendruber, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**3236 Cherryridge Rd
Part of Lots: 23 & 24 Block 2
Englewood, Colorado
Schedule No. 032022141
Parcel No. 2077-12-2-02-013**

The subject property consists of a brick veneer one story residence built in 1963 and located in the Cherryridge Subdivision. There are 2,540 square feet of above grade living area and a 961 square foot basement with 871 square feet of finish. There are three bedrooms, three bathrooms, a fireplace and air conditioning. Additional amenities include outdoor patios, porches, decks and a 1,536 square foot garage area. The lot size is 42,549 square feet with a storm drainage easement along the eastern boundary of the site.

Petitioners are requesting an actual value of \$525,000 for the subject property for tax year 2015. Respondent assigned a value of \$884,500 for the subject property for tax year 2015 but is recommending a reduction in value to \$800,000.

Petitioner, Mr. Mark L. Griffin, described the subject property as a one-story residence having single pane windows, hollow-core doors and minimal updating. The lot area is slightly under one acre and is significantly impacted by a storm drainage easement that also includes a secondary overflow easement. Mr. Griffin presented a map provided by Cherry Hills Village outlining the parameters of the easement. The map identified a reduction in the building envelope from 21,000 square feet to 14,500 square feet. Mr. Griffin argued that although there is a tennis court located within the parameters of the easement, he estimates that 50% of the site is adversely affected by the easement.

Mr. Griffin argued that Respondent overvalued the subject's land by incorrectly calculating the dimensions of the easement. Mr. Griffin presented a copy of the recorded easement along with a copy of a map prepared by Tri-Consultants, Inc., and testified that the easement is 95 feet wide by 250 feet in length. Mr. Griffin contends that as a result of miscalculation, Respondent failed to adequately discount the land value, further arguing that Respondent did not give adequate consideration to the condition of the subject property relative to other properties in the market area.

Mr. Griffin did not present a market approach, but instead argued that Respondent used comparable sales that were superior in condition and level of updating, but were not affected by an easement. According to Mr. Griffin, Respondent's Sale 1 has a superior location overlooking the golf course, and Sale 2, which is located across the street from the subject property, was reported to include \$1,000,000 in renovation costs. Mr. Griffin considered Sale 3 to be most similar to the subject; however, that sale included two additional lots and two high producing water wells that Cherry Hills Homeowner's Association had reportedly been using as a main water source. Mr. Griffin did not consider Respondent's Sale 4 to be comparable.

Mr. Griffin presented a value of \$525,000 for the subject property. In determining the land value, he worked off of Respondent's \$600,000 base lot value making a downward adjustment of 50% to account for the storm drainage easement, applying a value of \$300,000 to the subject site. Mr. Griffin estimated the improvement value at \$225,000 based on the subject property's overall condition and lack of updating.

Petitioner is requesting a 2015 actual value of \$525,000 for the subject property.

Respondent's witness, Ms. Kim A. Woodward, Certified Residential Appraiser with the Arapahoe County Assessor's Office, presented an indicated value of \$800,000 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$1,050,000 to \$1,230,000 and in size from 2,976 to 3,572 square feet. After adjustments were made, the sales indicated a range in value from \$771,900 to \$804,408.

Ms. Woodward testified that she inspected the subject property from the street and considered the property to be in average condition. Comparable Sales 1 through 3 used in the analysis are all located within the same subdivision as the subject and reflect market conditions in the area. Sale 4 was used to help bracket the subject's gross living area and is located in a nearby

competing environment. Ms. Woodward testified that although Sale 3 is similar to the subject and was used at Petitioners' request, it was not initially considered a qualified sale because it involved purchase of two additional lots.

Net adjustments were made to the sales ranging from 26% to 37% accounting for all factors affecting the value including the subject's storm drainage easement. Ms. Woodward testified that lots in the area under one acre are valued at a base lot value of \$600,000. Therefore, Ms. Woodward applied a base lot value of \$600,000 to the subject lot making a downward adjustment of 28% for the easement to determine land value of \$432,000.

Ms. Woodward testified that she relied on the copy of the recorded easement and map provided by Petitioners in calculating the dimensions for the easement. She calculated the actual easement to measure 60 feet by 200 feet, equaling a total area of 12,000 square feet including the secondary overflow easement. She interpreted the permanent easement to measure 10 feet wide with an additional 25 feet allowance on each side for a total width of 60 feet (25 feet+ 10 feet+ 25 feet). Ms. Woodward estimated that approximately 28% of the property was impacted by the storm drainage easement and applied a downward adjustment of 28% to the land value.

Respondent assigned an actual value of \$884,500 to the subject property for tax year 2015.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Board of Assessment Appeals v Sampson*, 105 P.3d 916,920 (Colo. App. 2002). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced Respondent's recommended lower value of \$800,000 is supported and accurately reflects subject's actual value. The Board concludes that Respondent's comparable sales and adjustments were reasonable and supported. The sales used in Respondent's analysis are located within the subject's market area and were sold during the statutory base period.

While the Board fully acknowledges Petitioners' argument regarding the condition of the subject property, Petitioners provided insufficient evidence of its inferior condition, such as photos indicating minimal updating, or cost estimates of repairs needed to support a lower value.

The primary disagreement between Petitioners and Respondent is the total area affected by the storm drainage easement. The Board reviewed a copy of the easement and maps and found Respondent's interpretation regarding the easement's measurements to be more convincing. The language contained within the Recorded Easement (Arapahoe County Record 1978410) describes the secondary overflow storm water detention facility, granting the right to enter the property within 25 feet of the side boundaries. Respondent's measurements were based on a 10-foot permanent easement and 25-foot overflow area on each side for a total width of 60 feet. Petitioners concluded to a width of 95 feet and failed to present any substantive evidence supporting their measurements. The 60-foot width was further supported by the map generated by Cherry Hills Village outlining the easement and building envelope.

ORDER:

Respondent is ordered to reduce the value from \$884,500 to \$800,000 for tax year 2015.

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 November, 2015.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra W. Mercier

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

