

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KIRSTEN AND CHARLIE DAYE,</p> <p>v.</p> <p>Respondent:</p> <p>TELLER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65856</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 11, 2015, James R. Meurer and MaryKay Kelley presiding. Petitioner, Kirsten Daye, appeared *pro se* on behalf of Petitioners. Respondent was represented by Paul W. Hurcomb, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**205 Hillside Lane, Cripple Creek, Colorado
Schedule No. R0009803**

The subject is a 1,652 square foot residence built in 1999 on a 1.23-acre site. It is located in the covenant-controlled Cripple Creek Mountain Estates Subdivision, which is comprised of 518 sites, 144 of them improved. Annual Homeowner Association dues are \$214.50. Non-paved interior roads are county-maintained. The subject, purchased in 2011 by Petitioners, is a ranch elevation without basement and has both a two-car attached garage and an 864 square foot detached garage/workshop (also described as a pole barn/garage) built in 2012.

Respondent assigned an actual value of \$215,000 for tax year 2015, which is supported by an appraised value of \$250,000. Petitioners are requesting a value of \$152,069.65.

Petitioner, Kirsten Daye, described the subject property as a plain, basic house purchased in 2011. After 188 days on the market as an estate listing priced at \$150,000, Petitioners bought it for \$142,000, considering this price to be indicative of the marketplace, not a duress listing.

Mrs. Daye testified that construction of a new garage/workshop prompted revaluation for the 2014 intervening tax year, although the CBOE then rendered a value of \$142,000 (subject's 2011 purchase price), failing to reflect the new construction. Respondent's witness explained that the CBOE wrongly assumed that the intervening-year value had to remain the same as the 2013 base-year valuation and, thus, failed to assign value for the garage/workshop's new construction.

Mrs. Daye noted the 105% increase in the 2015 actual value (\$291,702) in comparison to the 2014 assigned value (\$142,000). While overall values in the subdivision increased by just 27%, she considered her valuation to be overinflated.

Petitioner disagreed with Respondent's description of views as "very good". While she described views from some rooms as good (aspen trees), others look onto the road berm or an electric pole. She argued that view assignment should have been "good" or "fair".

Mrs. Daye disagreed with Respondent's time adjustments and applied her own calculations for Respondent's comparable sales, reflecting the number of days from purchase to the end of the base period. She concluded to time-adjusted sale prices (TASP): \$160,990 (Sale One); \$165,210 (Sale Two), and \$160,990 (Sale Three) in comparison to Respondent's TASP of \$187,518, \$226,910, and \$229,189, respectively.

Mrs. Daye presented 24 base period sales within the subject subdivision. All were similar to the subject, basic and plain. Grouped by average prices per square foot for 2011, 2012, 2013 and 2014, the groupings reflected a decrease in 2012 and increases in 2013 and 2014. The average sale price of all 24 was \$83.92 per square foot. She concluded to a value of \$138,632.75 based on price per square foot of the subject.

Mrs. Daye discussed the garage/workshop, which was built in 2012 for \$22,774.40. She disagreed with Respondent's description of it as a permanent structure. Its pole barn construction has a 15-20 year life, suggesting deterioration at present. Respondent made positive adjustments of \$25,000 to comparable sales without outbuildings, more than cost new per Mrs. Daye. Based on *Today's Homeowner*, an online journal, return on investment was 59%, and she concluded to a market value of \$13,436.90 for the structure.

Mrs. Daye's requested value was based on her average per square foot value of \$138,632.75 plus the value of the garage/workshop (\$13,436.90) or \$152,069.65.

Respondent's witness, Betty Clark-Wine, Teller County Assessor with an Ad Valorem license, presented an appraisal without benefit of an interior inspection. The appraisal included three comparables with sale prices of \$175,000, \$220,000 and \$227,000, respectively. Located in the subject subdivision, one was a ranch elevation and two were 1 ½ story homes. Adjustments were made for time (statistical and paired sales analyses), construction quality, above-grade size, basement size and finish, bedroom count, fireplaces, heat source, roof construction, and the subject's garage/workshop. Adjusted sale prices were concluded to \$214,958, \$261,430, and \$250,547, respectively. Placing greatest weight on Sale Three (most recent sale, least number of adjustments, largest square footage), Ms. Clark-Wine concluded to a value of \$250,000.

Ms. Clark-Wine assigned a market value for the subject's garage/workshop of \$25,000. Replacement cost per Marshall Swift Reproduction Cost Handbook was estimated at \$27,000 to \$28,000. Knowing that cost new is not market value, she then interviewed construction company personnel and researched existing properties with detached outbuildings (few could be identified). She concluded to a market value of a three-car storage building/workshop with electricity at \$25,000.

Ms. Clark-Wine's research for time adjustments was based on all residential sales within the 24-month time period ending June 30, 2014. The statistical analysis indicated an upward trend. Paired sales within the subject subdivision confirmed the increase of .31% per month.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Pursuant to 39-1-103(5)(a), "the actual value of residential real property shall be determined solely by consideration of the market approach to appraisal." Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time, size, and a variety of physical characteristics. Petitioners' methodology involved averaging, which does not conform to statute or acceptable appraisal methodology.

Respondent's application of statistical analysis and paired sales within the subject subdivision is the more reliable methodology for time adjustments than Petitioners' calculations. It reflects overall trends in the marketplace supported by paired sales within the subdivision. The Board has more confidence in Respondent's analysis.

The Board has reviewed the parties' arguments regarding the detached garage/workshop. Respondent relied on opinions from contractors, while Petitioners applied anecdotal data. While the most reliable data is ordinarily derived directly from the marketplace. Respondent's witness could not identify any properties with outbuildings with sloping mountainous terrain that leaves little level ground on which to construct outbuildings. If Petitioners' garage/workshop estimate of \$13,436.90 were applied to Respondent's appraisal, adjusted sale prices would be \$303,394.90, \$491,866.9 and \$348,983.90. The assigned value of \$215,000 would not be impacted.

Petitioners' argument regarding view is not convincing. It is not uncommon for roads, berms, and electric poles to be viewed from some rooms. The subject's premium view appears to be of the aspen forest from the front of the house. Respondent's witness drove by all comparable sales, and her opinion of their views as similar to the subject is convincing.

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).

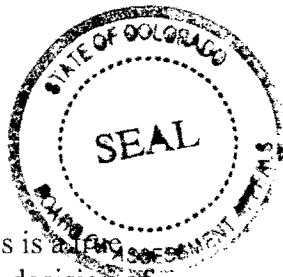
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.


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.

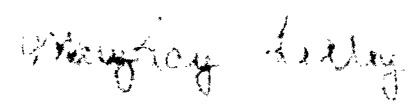
DATED and MAILED this 23rd day of December, 2015.

BOARD OF ASSESSMENT APPEALS





James R. Meurer



MaryKay Kelley

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



Milla Lishchuk