

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 66062**

Petitioner:

**BRIAN S. AND CYNTHIA L. FREEMAN,**

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF  
EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on December 2, 2015, Diane M. DeVries and MaryKay Kelley presiding. Petitioner, Mr. Brian Freeman, appeared pro se on behalf of Petitioners. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**24256 East Ottawa Avenue, Aurora, Colorado  
Arapahoe County Schedule No. 034556591**

The subject property is a 2,882 square-foot two-story residence located in the Tallyn's Reach Subdivision. Built in 2007, it has an unfinished basement and a three-car garage.

Respondent assigned an actual value of \$458,400 but is recommending a reduction to \$435,000 based on appraisal. Petitioners are requesting a value of \$400,000.

Mr. Freeman presented five comparable sales derived from mass appraisal by the Assessor's Office, applying his own calculations to arrive at the value conclusion of \$379,246: sale price minus the County's assigned land value, deriving an improvement-only sale price; improvement-only sale price divided by finished square feet (above and below grade) for a finished price per square foot; finished price per square foot times above-grade square footage. He averaged the five adjusted sale prices for a conclusion of \$379,246.

Mr. Freeman presented five comparable sales provided by the county appraiser at the BOE level of appeal with a value conclusion of \$378,187. He applied the same calculations as above, averaging the five adjusted sale prices.

Mr. Freeman based his requested value of \$400,000 on three valuations, the two outlined above (\$379,246 and \$378,187, respectively) and an independent appraisal concluding to \$435,000 but not admitted into evidence (dated post-assessment date).

Mr. Freeman discussed three property issues not addressed by the Assessor's witness in his report: a steep slope at the rear of the site causing drainage problems (Petitioner installed terracing); a large, unsightly electrical box; and a weed-filled adjoining site that has not been landscaped. He considered all three negative impacts on marketability and value.

Respondent's witness, Tom F. Legueri, Registered Appraiser for the Arapahoe County Assessor, presented three comparable sales, all two stories in the subject subdivision, ranging in sale price from \$357,000 to \$385,000. After adjustments were, the sales ranged from \$424,019 to \$456,728. Mr. Legueri concluded to an indicated value of \$435,000.

Mr. Legueri made no adjustments for Petitioners' three areas of concern (rear slope, electrical box, and the adjacent home's lack of landscaping). He was not granted access to the property and was unaware of the back yard slope. He noted that electrical boxes were not unusual and that he was unable to determine any impact on value. He testified that absence of landscaping with the next-door neighbor was a Homeowner Association issue.

Mr. Legueri was questioned about his \$25,000 construction quality adjustments for Sales Two and Three. He assigned the adjustments arbitrarily, assuming the interior of these homes had features superior to the subject and Sale One.

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

Colorado Revised Statute requires use of the Market Approach in valuing residential properties. Respondent's appraisal adheres to the statutory mandate in which the subject property is compared to three similar properties with adjustments for differences. Petitioners' calculations meet neither statute nor acceptable appraisal practice.

The Board is not convinced that Respondent has defended the construction quality adjustments to Sales Two and Three. The witness arbitrarily assumed that interior features were superior to those of the subject and Sale One but provided no support for the assumption. The Board finds that these two \$25,000 adjustments are unwarranted. Adjusted values, therefore, are \$456,728, \$399,019, and \$399,380. Sale Two is given most weight because it is most similar in improvement size to the subject.

The Board concludes that the 2015 actual value of the subject property should be reduced to \$400,000.

**ORDER:**

Respondent is ordered to reduce the 2015 actual value of the subject property to \$400,000.

The Arapahoe County Assessor is directed to change their 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 17th day of December, 2015.

**BOARD OF ASSESSMENT APPEALS**

*Diane M DeVries*

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Diane M. DeVries

*MaryKay Kelley*

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MaryKay Kelley



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

*Milla Lishchuk*  
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Milla Lishchuk