

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 67754

Petitioner:

BARTON M. BUETOW,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 21, 2016, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**4150-4152 Kipling Street, Wheat Ridge, Colorado
Jefferson County Schedule No. 043018**

The subject property consists of five structures on a 5.656 acre site; a two-story residential conversion from a one-level ranch built in 1946 (40% complete as of the valuation date); an 895 square foot ranch built in 1930; a large barn with two attached pole barns and two utility sheds. The City of Wheat Ridge owns the land and retention pond between the subject site and Kipling Street.

Attachment A to Respondent's Exhibit A shows a map of the subject geographical area with delineation of the 100-year floodplain (blue) and the floodway (red). Petitioner's property is outlined in black. Construction within the floodplain is restricted. Floodway restrictions prohibit new construction or improvements to existing buildings. Respondent estimates that 65% of the site lies within the floodplain and 35% within the floodway. Although Petitioner considers these percentages to be arbitrary, both parties use them, and the Board accepts them.

Respondent assigned an actual value of \$430,360, which is supported by an appraised value of \$510,000. Petitioner is requesting a value of \$310,000.

Mr. Buetow presented a site value of \$96,975 based on the average of two analyses:

- 1) He averaged the sale prices of eleven sales (\$32,596 per acre) and multiplied that average by 5.65 acres, which resulted in \$184,367. Petitioner then allocated Respondent's 65% for floodplain (\$87,432) and 35% for floodway (\$9,034), concluding to \$96,516 for the subject.

- 2) Petitioner then divided 5,656 acres by the average of the acreages for Respondent's Sales One and Two (.987 acres) which resulted in 5.71 "factor." He then multiplied the 5.71 factor by the average per-acre price of the eleven sales (\$32,596) concluding to \$186,123 gross value.
 He then allocated 65% for floodplain (\$88,315) and 35% for floodway (\$9,120), concluding to the subject's value of \$97,435.

Mr. Buetow presented two calculations for the total value of the subject property (land and improvements):

(1)	Average of five 2-story sales (land & improvements)	\$318,020
	Less land	-\$96,975
	Value of the improvements	-\$221,045
	Subject 2-story structure @ 40% complete	=\$88,418
	Plus land	+\$96,975
	Plus stipulated value of second house & outbuildings	+\$103,231
	Final Value	=\$288,624
(2)	2-story structure at 2,473 square feet times \$110 cost to build	\$108,812
	Plus land	+ \$96,975
	Plus stipulated value of second house & outbuildings	+\$103,231
	Final Value	=\$309,018

Mr. Buetow's requested value of \$310,000 was based on the above calculations with greatest weight given to calculation 2 (\$309,018).

Mr. Buetow discussed Respondent's three comparable sales, noting that none were two level homes and that only Sale Three was reliable. Starting with Sale Three's adjusted sale price of \$353,500 (adjusted by Respondent for time and concession), he made deduction for the floodplain and floodway impact, added the value of the 40% completed two-story improvement and the stipulated value of the second house and outbuildings, concluding to a recalculated value of \$302,236. (The Board cannot confirm all of Petitioner's calculations.)

Respondent's witness, Dorin Tissaw, Ad Valorem Appraiser for the Jefferson County Assessor's Office, presented a site value of \$244,000. She presented two calculations, one for floodplain area totaling \$219,879 and one for floodway area totaling \$24,375, and concluded to the sum of \$244,000.

Respondent's calculations are as follows:

(1) \$497,465	(source unknown)	(2) \$497,465	(source unknown)
<u>-\$323,352</u>	65% floodplain	<u>-\$174,113</u>	35% floodway
\$ 174,113		\$480,352	
+ \$24,873	open space	<u>-\$149,737</u>	86% unbuildable
- \$49,747	traffic	\$24,375	value of floodway
<u>- \$134,315</u>	27% unbuildable		
\$219,879	value of floodplain		

Ms. Tissaw completed a second analysis with three vacant land sales ranging in size from 0.994 to 1.565 acre and in sale price from \$152,000 to \$262,500. After qualitative adjustments, she concluded to a value of \$43,098 per acre or \$244,000, rounded.

Ms. Tissaw presented a Market Approach for the improved subject property with three comparable sales ranging in sale price from \$350,000 to \$444,000. After adjustments for time and seller concessions, acreage and traffic, age/effective age and construction, size and room count, basement size and finish, miscellaneous (including various features, patios, and outbuildings), and a second residence (values on record were applied), she concluded to an adjusted range from \$667,300 to \$839,210. The remaining calculations, concluding to an appraised value of \$430,000, are confusing and cannot be deciphered by the Board.

Petitioner presented sufficient evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015. Testimony and evidence convinced the Board that the floodplain and floodway have substantial impact on marketability and value and were not fully addressed by Respondent.

The Board gives little weight to valuation of the site independent of the whole or to valuation of improvements independent of the whole. Both parties valued various segments of the property independently: site value; the 40%-complete two-story structure; and the stipulated values of the remaining structures (second residence, barn, and two sheds). Acceptable appraisal practice requires valuation of an improved site as a single unit.

Both state constitution and statute require use of the Market Approach to value residential property. The Board gives little weight to Petitioner's various methodologies (averaging sales prices, applying flood percentages to assessor records, etc.).

The Board finds numerous flaws and has little confidence in Respondent's Sales Comparison Analysis. Comparable sale selection is poor, acreages are dissimilar to the subject's 5.656 acres, and improvement sizes are not similar to the subject's 2,473 square feet. The subject's year of construction does not adequately represent the nearly-new two-story residence, and percent complete should not be addressed in the age line item as was done in Respondent's analysis. The second residential structure, the barn, and the two sheds are not addressed in Respondent's analysis. Further, averaging adjusted sale prices contradicts appraisal theory. "[R]eliance should be placed on the comparable sale or sales that are the most similar to the subject property and have the least adjustments." *ARL*, Vol 3, pg 2.41. Last, the Board cannot correlate Respondent's final calculations, which, again, appear to address independent units rather than valuation of the whole.

Respondent's witness suggests that the value of the subject site (\$244,000) is 45% of indicated value (\$510,000). Regardless of the witness's flawed methodology, this percentage is not credible when considering that the site lies within a 100-year floodplain with associated restrictions, is adjacent to a city-owned flood-related retention pond, and lies within a floodway with rigid building restrictions. Were the site vacant, potential flooding and subsequent building restrictions would decrease the pool of buyers, lengthen marketing time, and affect value. The Board also took a note that, of 16 vacant five-acre sites presented in Attachment C, twelve sold lower than \$244,000, and some of these known locations are within higher-priced, very marketable subdivisions. All of this data questions the credibility of the report and its final value conclusion.

After consideration of the evidence and testimonies presented by both parties, the Board finds that Respondent's assigned value of \$430,360 is not supported. The Board finds that sufficient probative evidence has been presented to convince the Board that Petitioner's requested value of \$350,000 constitutes a better representation of the subject's value for the 2015 tax year.

The Board concludes that the 2015 actual value of the subject property should be reduced to \$350,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$350,000.

The Jefferson 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 19th day of May, 2016.



BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

[Signature]
Milla Lishchuk