

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 68157

Petitioner:

**LENNAR/US HOMES CORPORATION HAWTHORN
SUBDIVISION,**

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 24, 2016, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Casie A. Stokes, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties agreed to stipulate to the expert witnesses, to Petitioner's Exhibits 1 and 2 and to Respondent's Exhibit A. The Board admitted Respondent's Exhibit B noting Petitioner's objection.

Subject property is described as follows:

**149 developed residential building lots
Hawthorn Subdivision
Golden, Colorado
Jefferson County Schedule Numbers 459730 + 148**

The subject property contains 149 developed vacant residential lots. The Hawthorn Subdivision is located east of State Highway 93 and north of W. 58th Avenue. All the lots are located within the limits of Golden.

Petitioner presented the following indicators of value:

Market: \$6,939,973

Cost: Not applied
Income: Not applied

Petitioner is requesting an actual value of \$6,939,973 for the subject property for tax year 2015. Respondent assigned a value of \$11,151,160 for the subject property for tax year 2015.

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates Cost Reduction Specialists, Inc., presented a market approach consisting of nine comparable sales. The sales ranged in price from \$45,750 to \$195,000 for lots containing from 7,762 to 19,502 square feet. After adjustments were made, the sales ranged from \$41,175 to \$83,250 per vacant finished lot.

Mr. Stevens adjusted the sales for condition of sale, location, size and characteristics. A condition of sale adjustment was applied to Sales 5 through 8. The witness described this adjustment as accounting for unusual conditions of these sales. Mr. Stevens later indicated the lots were lender owned at the time of sale. All the sales, with the exception of Sale 6, were considered superior in location and were adjusted downward. All of the sales, with the exception of Sale 2, were adjusted downward due to larger size. Sales 1, 3, 4 and 9 received a negative adjustment for "characteristics" (the witness described factors such as open space, golf course community, views, cul-de-sac and walkout basement terrain as "characteristics"). Mr. Stevens concluded to a unit value of \$65,000 per lot for 84 interior lots. 65 lots were increased by 10% for either greenbelt or open space premiums for a unit value of \$71,500 per lot.

Petitioner's witness adopted Respondent's absorption analysis and performed present worth calculations on the above conclusions. The following summary represents this analysis:

BASE SALE	\$65,000
OPEN SPACE	\$71,500
ABSORPTION	5 Years
DISCOUNT RATE	14%
PW* BASE SALE	\$44,630
PW OPEN SPACE	\$49,093

*Present Worth

The witness concluded to a total value of \$6,939,973.

Respondent presented the following indicators of value:

Market: \$11,151,160
Cost: Not applied
Income: Not applied

Respondent's witness, Ms. Shelly Goltart, a Certified Residential Appraiser, presented a market approach (sales comparison approach) consisting of five comparable sales. The sales ranged in price from \$85,000 to \$165,800 for lots containing from 12,256 to 28,524 square feet. After adjustments were made, the sales ranged from \$85,000 to \$165,800 per vacant finished lot.

The witness considered qualitative adjustments for location, utilities, views and traffic influence. Sales 3 and 4 were considered superior in lot size. Utilities identified as sewer, water, gas and electric were adjusted based on availability with only Sale 5 similar in all respects for these factors. Sales 1 and 2 were inferior due to traffic noise requiring upward adjustment. Sales 3 and 4 were considered much superior in view and were adjusted downward a greater amount than Sales 1 and 2 which were adjusted for traffic influence. The adjusted indications by this process were Inferior +++ for Sale 1, Inferior ++ for Sale 2, Superior – for both Sale 3 and Sale 4 with Sale 5 classified as Similar. Ms. Goltart concluded to a unit value of \$109,000 per site.

The witness provided a present worth analysis using the same absorption period and discount rate. The following is a summary of this analysis:

BASE SALE	\$109,000
ABSORPTION	5 Years
DISCOUNT RATE	14%
PRESENT WORTH	\$74,840

Ms. Goltart determined a value of \$11,151,160 for the 149 developed lots.

Petitioner contends Respondent’s sales are not comparable because they are from dissimilar locations and are significantly larger than the average lot size for the subject. Petitioner also questioned why the site specific appraisal conclusion exactly matches the conclusion derived by the mass valuation procedure. Petitioner also argued that the use of qualitative adjustments by Respondent’s witness did not lead to a clear or reliable conclusion.

Respondent states that Petitioner has not met its burden of proof. Respondent asserts that Respondent’s witness, a licensed appraiser, is more credible than a consultant working on a contingent fee. Respondent also disputes the similarity of the comparable sales used by Petitioner’s witness as they are from poorer neighborhoods including some locations close to industrial users. Respondent dismisses Petitioner’s contention that Respondent’s comparable sales are too large arguing the transactions simply represented building sites. According to Respondent, the statute requires the use of single family lot sales and these were the best available within the base valuation period. Respondent points to Petitioner’s value opinion as below that of raw land.

The Board considers Respondent’s contention that values must be derived solely from single family lot sales to be inaccurate. The Board reads the direction in the Assessors Reference Library to allow use of qualified single and multi-lot sales. The Board finds merit in Petitioner’s contention regarding Respondent’s use of land sales that are too large to be reasonably comparable. Respondent’s adjustment grid (A-31) indicates the lots in the subject subdivision range from 5,499 to 12,171 square feet, a fact Petitioner disputes. Petitioner’s Exhibit 1, pages 25 – 27 indicates that only 2 of the 149 subject lots exceed 10,000 square feet and the majority of the lots are much smaller. Respondent’s smallest comparable sale, (#5), is 2.3 times the size of the subject’s smallest lot. Respondent’s witness testified to not calculating the average size of the subject lots and did not

dispute Petitioner’s calculation of 6,827 square feet. Respondent’s witness stated that greenbelt adjustments were not applied to the sales at the direction of the BAA

The Board also finds Petitioner’s comparable sales to be insufficient as presented. Market value is determined by consideration of transactions of lots, or a lot, from individual or developer to builder. The use of lender owned or REO transactions is both not supported by the ARL as well as inappropriate in a competitive market. For this reason, Petitioner’s Sales 5-8 are unacceptable and are disregarded.

The Board re-calculates Petitioner’s sales comparison approach, removing Sales 5-8 from consideration as reflected below:

SUBJECT	SALE 1	SALE 2	SALE 3	SALE 4	SALE 9
Sale Price	\$125,000	\$55,900	\$80,000	\$195,000	\$111,000
Lot Size (SF)	12,725	7,762	10,206	12,421	12,599
ADJUSTMENTS					
Location	-20%	-5%	-5%	-25%	-5%
Size	-10%	0%	-5%	-10%	-10%
Characteristics	-5%	0%	-10%	-25%	-10%
Adj. \$ Per Lot	\$81,250	\$53,105	\$64,000	\$78,000	\$83,250

Respondent’s Sale 5, containing 12,256 square feet, falls within the range of the comparable sales used above. As Respondent’s witness did not make quantitative adjustments, the Board has chosen to apply the adjustment amounts used by Petitioner for similar features. In the case of Respondent’s Sale 5, this transaction requires a negative adjustment for a water tap that is not present in the other comparable sales. Respondent’s Sale 1 and Sale 2 are very similar to each other with the exception of a water tap. The difference in sale price between the two was \$22,000. Respondent’s Sales 1, 2 and 5 are located within Golden so a direct adjustment for this utility service is appropriate. The Board finds no support for Petitioner’s assertion that every location in the market is superior to the subject. Respondent’s witness considered the location of Sale 5 as “similar”. For consistency, only a -5% adjustment is applied for location to Respondent’s Sale 5. After consideration of all factors, the following adjustment grid was developed:

SUBJECT	Pet. SALE 1	Pet. SALE 2	Pet. SALE 3	Pet. SALE 4	Pet. SALE 9	Res. SALE 5
Sale Price	\$125,000	\$55,900	\$80,000	\$195,000	\$111,000	\$165,800
Lot Size (SF)	12,725	7,762	10,206	12,421	12,599	12,256
Utilities	None	None	None	None	None	Water
Adjustment						-22,000
Adj. \$/Lot	\$125,000	\$55,900	\$80,000	\$195,000	\$111,000	\$143,800
ADJUSTMENTS						
Location	-20%	-5%	-5%	-25%	-5%	-5%
Size	-10%	0%	-5%	-10%	-10%	-10%
Characteristics	-5%	0%	-10%	-25%	-10%	-10%

Net Adj.	-35%	-5%	-20%	-60%	-25%	-25%
Adj. \$ Per Lot	\$81,250	\$53,105	\$64,000	\$78,000	\$83,250	\$107,850

Petitioner's original 9 sales had an average adjusted lot value of \$59,273. Petitioner concluded to a single lot value of \$65,000 per lot. Without consideration of Sales 5-8, the average adjusted indication rises to \$71,921. Addition of Respondent's Sale 5 to the analysis raises the average to \$77,909 per lot. Petitioner's witness stated his Sale 1 to be the best comparable; Respondent's witness stated her Sale 5 to be the most comparable.

The Board has determined the following unit values from the above adjustment grid:

Average Lot Value:	\$77,909
Median Lot Value:	\$79,625
Weighted Average:*	\$82,069
*Double weight to Petitioner's Sale 1 and Respondent's Sale 5	

Based on the above, a unit value of \$80,000 per lot is adopted. Application of a 10% adjustment to 65 lots for either greenbelt or open space premiums, results in a unit value of \$88,000 per lot.

There was no disagreement between the parties in regard to the determination of present worth. Using a Present Worth of \$1 Factor of 3.433081, the Board determines the present worth of a base lot to be \$54,929 and a greenbelt lot as \$60,422 (calculated by dividing the unit value per lot by a five year absorption period and multiplied by the present worth factor). The following application of the present worth estimate to the number of lots produces the following indications:

84 base lots at \$54,929 = \$4,614,036
65 greenbelt lots at \$60,422 = \$3,927,430
Total: \$8,541,466

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

The Board concluded that the 2015 actual value of the subject property should be reduced to \$8,541,466.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$8,541,466.

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).

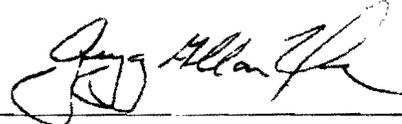
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 7th day of December, 2016.

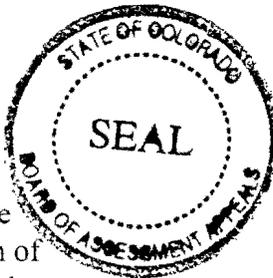
BOARD OF ASSESSMENT APPEALS



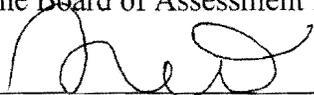
Gregg Near



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