

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

Docket No.: 68356

Petitioner:

DEREK C. & ANN L. WEST,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 6, 2016, James R. Meurer and Gregg Near presiding. Petitioners were represented by Mr. Mills H. Ford, agent. Respondent was represented by Dawn L. Johnson, Esq. Petitioners are protesting the 2015 actual value of the subject property.

The parties agreed to stipulate to the expert witnesses, to Petitioner's Exhibit 1 and Respondent's Exhibits A through G.

Subject property is described as follows:

**724 Evening Star Drive
Castle Rock, CO 80108
Douglas County Schedule No. 388866**

The subject property consists of a custom quality ranch style single family residence built in 1998 in the gated, golf course community of Castle Pines Village. The home contains 2,625 square feet on the upper level with a 2,644-square-foot walkout basement of which 2,282 square feet is finished. The improvement is located on a 26,572 square foot greenbelt lot with views of the Front Range. There has been no significant updating to the improvements since construction.

Petitioners are requesting an actual value of \$760,000 for the subject property for tax year 2015. Respondent presented an appraisal reflecting a value of \$1,000,000 for the subject property for tax year 2015 which supports the assigned value of \$950,000.

Petitioners were represented by Mr. Mills H. Ford, a Certified General Appraiser. Mr. Ford stated he was acting in the capacity of both an appraiser and an agent. In his presentation to the Board, Mr. Ford explained that he had performed an appraisal for Petitioners for a fee.

Mr. Ford presented a sales comparison approach (market approach) containing five comparable sales ranging in sale price from \$695,000 to \$1,000,000 and in above grade size from 2,612 to 4,420 square feet. After adjustments were made, the sales ranged from \$653,499 to \$873,393.

Mr. Ford testified he considered it appropriate to select comparable sales from a 24-month base period. According to Mr. Ford, the subject, having closed on May 31, 2012, was an appropriate sale for consideration as it closed just outside the 24 month base period. This transaction was one of the five sales used in his analysis.

Adjustments were applied to the comparable sales for a declining market at -2% per year, for quality, lot value, age, above grade square footage, below grade (walkout) square footage, below grade finish, fireplaces and garage size. Mr. Ford gave greatest weight to the adjusted sale of the subject (Sale 1) for \$665,617 in his reconciliation. Sales 3 and 5, at adjusted indications of \$766,362 and \$802,149 respectively, were considered the next best with Sales 2 and 4 bracketing his concluded value of \$760,000.

Respondent's witness, Ms. Becky Fischer, a Certified Residential Appraiser, presented a value of \$1,000,000 for the subject property based on the market approach.

Ms. Fischer presented five comparable sales ranging in sale price from \$805,000 to \$1,160,000 and in above grade size from 2,432 to 3,055 square feet. After adjustments were made, the sales ranged from \$789,160 to \$1,152,952.

Adjustments were applied to the comparable sales for personal property and other concessions. No time adjustments were applied. The witness indicated that although market values had improved during the base period, the increases were confined to price ranges below those found within the subject neighborhood.

After the above transactional adjustments were applied, Ms. Fischer considered and adjusted for differences in above grade square footage, bathrooms, walkout design, below grade (walkout) square footage, below grade finish, garage size, fireplaces, and lot value. The witness gave greatest weight to the adjusted indications of Sales 1 and 2 at \$902,902 and \$1,101,658, respectively. With the other comparable sales lending support, Ms. Fisher concluded to a value of \$1,000,000.

Respondent assigned an actual value of \$950,000 to the subject property for tax year 2015 with a site specific appraisal of \$1,000,000 providing support for the original valuation.

Petitioners contend the 5/2012 sale of the subject is very significant as that price was obtained after a marketing period of 1,046 days and illustrates the market's reaction to deficiencies intrinsic to the property. Although describing the home as "Very Good" Mr. Ford considered the

home to be “in the lower range of design, quality and appearance” (Exhibit 1, page 9). Mr. Ford also argued that the 24-month base period, which is typical in his opinion, would not preclude the use of the subject as a comparable sale. According to Mr. Ford, as the sale of the subject represented a recent, “arm’s length” transaction, it was imperative to consider it in his analysis.

Respondent questioned Mr. Ford’s qualifications pointing to Petitioners’ Exhibit 1, page A-14 reflecting the most recent USPAP update as of April 2011, far outside the required 2-year schedule. Respondent pointed to Respondent’s Exhibit C, an appraisal provided for the BOE, where Mr. Ford utilized four different comparable sales than those provided for the BAA; concluded to a different value; and determined an 8% per year improving market within the 18-month base period. Respondent also rejected Petitioners’ contention that a 24-month base period is typical or standard as the statute mandates an 18-month base period. Respondent’s appraiser correctly considered the 18-month period and found sufficient sales information to derive a supportable value. On the other hand, Petitioners artificially extended the base period claiming insufficient sales in order to determine a low valuation.

The Board finds Respondent’s position to be most compelling. The Board agrees with Respondent that the statute defines base period as consisting of 18 months. The Board also finds there was sufficient data within that time frame to allow for adequate analysis. Therefore, the Board was not convinced that Mr. Ford’s use of the sales from the extended base period was appropriate. Further, the Board was unable to replicate Mr. Ford’s adjustment process. Mr. Ford’s explanations for using above grade living area adjustments that varied from \$92.93 per square foot to \$151.58 per square foot were not convincing.

Colorado case law requires that “[Petitioner] must prove that the assessor’s valuation is incorrect by a preponderance of the evidence. . .” *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

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).

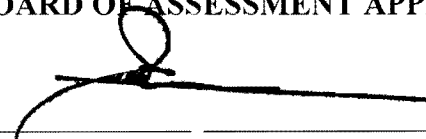
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

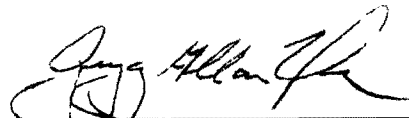
Section 39-8-108(2), C.R.S.

DATED and MAILED this 24th day of October, 2016.

BOARD OF ASSESSMENT APPEALS

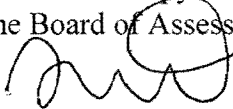


James R. Meurer



Gregg Near

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



Milla Lishchuk

