

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

Docket No.: 69237

Petitioner:

RONALD C. AND KAREN M. ATKINSON,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 24, 2017, James R. Meurer and MaryKay Kelley presiding. Petitioners were represented by Mills Ford, Agent. Respondent was represented by Dawn L. Johnson, Esq. Petitioners are protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**1038 Country Club Estates Drive, Castle Rock, Colorado
Douglas County Schedule No.: R0408719.**

The subject is a 1999 custom-built ranch with 2,810 square feet above grade, a partially-finished walkout basement, and a multi-car garage. The lot measures 1.22- acre with a golf course frontage. Country Club Estates is one of many enclaves within Castle Pines Village, a large community with roughly 1,400 homes.

Respondent assigned a value of \$1,775,000 for tax year 2016 which is supported by an appraised value of \$1,975,000. Petitioners are requesting an actual value of \$1,425,000 based on a site-specific appraisal.

The subject property was purchased in October of 2012. Respondent noted that the purchase followed a lengthy listing period that included expirations, re-listings, and price reductions. No changes in the subject's quality or condition have taken place since this purchase. Respondent, referencing Section 39-1-104(11)(b)(I), C.R.S., stated that no unusual condition has occurred since purchase to justify a reduction in price for 2016 tax year.

Petitioners' Agent, Mills Ford, Certified General Appraiser, presented a Market Approach concluding to an indicated value of \$1,425,000. His analysis included five comparable sales. Sale Five was the 2012 sale of the subject for \$1,425,000. The other four sales ranged in sale price from \$695,000 to \$1,350,000; adjusted sale prices ranged from \$1,340,329 to \$1,535,511.

Mr. Ford argued that the statutory time parameters for the base period and extended base period were restrictive in not allowing the appraiser's discretion in selecting appropriate comparable sales. He presented three sales that took place within the base period and two sales, including the subject, which occurred in 2012, during the extended base period.

Mr. Ford made adjustments for lot size at 95% of the difference between the subject's assigned lot value and the comparable sales' lot values, which he identified as "market acceptance of the dollar amount of the difference."

Mr. Ford testified to declining values in the greater Castle Pines area. He prepared three regression analyses; 4,400 sales in Douglas County (\$400,000 to 3,500,000), 1,300 sales in Castle Pines Village, Castle Pines North, and Castle Rock (\$400,000 to \$1,500,000), and 900 sales in the subject's zip code (\$400,000 to \$1,500,000). He concluded to -2% per year time adjustments.

Mr. Ford made other adjustments for construction quality, size (above grade, basement, and garage), basement finish, age, and number of fireplaces.

Respondent's witness, Ms. Peggy L. Gulam, presented a Market Approach that concluded to an indicated value of \$1,975,000. She presented four comparable sales ranging in sale price from \$1,087,500 to \$1,999,000. All were ranch elevations bracketing the subject in size, and all were custom homes with walkout basements on the golf course. Adjustments were made for size (above-grade, basement, and garage), basement finish, bathroom count, and fireplaces. Time adjustments (increasing values) were based on regression analysis, paired sales, and resales of the same properties. Adjusted sale prices ranged from \$1,497,795 to \$2,151,481.

The Board's Findings

Respondent argued that the credibility of Petitioners' witness was impacted because he was paid on a contingency fee basis. The Board finds that Mr. Ford's agency and appraisal fees arrangements were clearly disclosed to the Board. Taking into the consideration the nature of Mr. Ford's compensation, the Board regards Mr. Ford's appraisal as a consulting service, not as an independent appraisal. In analyzing this case, the Board weighs the evidence provided by Mr. Ford in light of the disclosed bias shown by the contingency fee arrangement.

Respondent also made an argument that there was no basis for adjusting the subject's 2016 value – which is the intervening year value from its 2015 base year value. Respondent cited Section 39-1-104(11)(b)(I), C.R.S. and stated that there was no unusual condition which would justify a change in value from 2015 as the subject's condition has not changed between January 1, 2015 and January 1, 2016. Respondent's argument has been previously considered and rejected by the Colorado courts. Regardless of lack of any "unusual condition," a taxpayer has a statutory right to

challenge a property tax valuation for each tax year, including intervening year. See *Weingarten v. Bd. of Assessment Appeals*, 876 P.2d 118 (Colo. App. 1994).

The Board finds that Mr. Ford's appraisal is unreliable. Use of the subject sale is not persuasive because it took place outside the applicable base period and because more recent sales data is available. The Board finds that Mr. Ford's use of pre-base period sales is unjustified considering the abundance of sales within the statutory 18-month base period. Mr. Ford's other four sales are not good comparisons: photographs show them to be of inferior construction quality for which his adjustments are subjective and not supported; considerably smaller lots; no walkout basements; no golf course frontage; and smaller garages. In addition, Mr. Ford chose to ignore base period sales of similar properties in favor of considerably older sales.

The Board finds Mr. Ford's explanation of lot size adjustments to be confusing and unsupported. The Board finds Mr. Ford's time adjustments to be unreliable. The range in sale prices used in his analyses is considered to be too low at \$400,000 and \$1,500,000 and too high at \$3,500,000. For this reason, the Board finds Mr. Ford's three regression analyses to be unsupported.

Respondent's appraisal is both supported and convincing. The witness selected comparable sales that are similar in location, custom quality, and size. All sales fall within the statutory base period and are custom-built ranches with walkout basements and golf course frontage. Respondent's adjustments adhere to acceptable appraisal practice.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2016.

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).

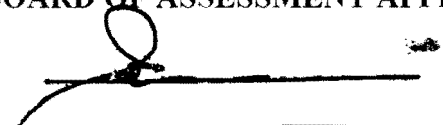
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

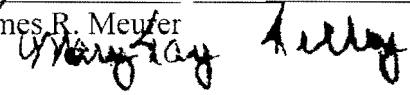
Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of March, 2017.

BOARD OF ASSESSMENT APPEALS

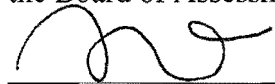


James R. Meuser



MaryKay Kelley

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



Milla Lishchuk

