

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WALTER AND MARGARET BARSZCZ,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 69268</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 16, 2016, Diane M. DeVries and Gregg Near presiding. Mr. Barszcz appeared pro se on behalf of Petitioners. Respondent was represented by Meredith P. Van Horn, Esq. Petitioners are protesting the 2015 actual value of the subject property.

The parties agreed at the beginning of the hearing to the admission of Petitioners' Exhibit 1 and Respondent's Exhibit A.

Subject property is described as follows:

**2062 Holmby Court
Castle Rock, Colorado 80104
Douglas County Schedule No. 250513308028**

The subject property consists of a good quality ranch style home constructed in 2014. The home contains 1,925 square feet on the main level with an unfinished garden level basement containing an additional 1,213 square feet. The home is situated on a 0.18 acre site in the Plum Creek Fairway Subdivision. The location is nearby the Plum Creek Golf Course and larger, more rural, parcels to the east.

Petitioners are requesting an actual value of \$365,000 for the subject property for tax year 2015. Respondent assigned a value of \$536,485 for the subject property for tax year 2015 and is submitting a site specific appraisal for a value of \$570,000 in support.

Mr. Barszcz presented information from two appraisal reports conducted in April 2013 and July 2014 respectively. Petitioners' Exhibit 1, page 7 is the front page of a form appraisal report completed in 2014 for a lender. The form indicates the property to be in new overall condition. Exhibit 1, page 6 is a portion of a form appraisal report completed in 2013 indicating a \$365,000 estimate of value for a 1,749 square foot residence proposed for construction at the subject site. Mr. Barszcz testified the home was complete as of January 1, 2015. The witness described the home's location as within a small pocket of custom homes that are not adjacent to the golf course. Petitioners' home backs to a small acreage that he refers to as horse property. Recently the owner of the neighboring acreage conducted a bluegrass concert with 200 participants. The neighbor has also begun to store recreational vehicles (RV's) as well as flatbed trailers very proximate to Petitioners' property line. This storage use began in August or September of 2015. According to Mr. Barszcz, the adverse influence on Petitioners' property is not reflected in Respondent's appraised value.

Respondent presented a value of \$570,000 for the subject property based on the market approach.

Respondent's witness, Mr. Martin D. Wilson, a Licensed Residential Appraiser, presented a market approach (sales comparison approach) utilizing four comparable sales ranging in sale price from \$539,000 to \$759,000 and in size from 2,194 to 2,517 square feet. After adjustments were made, the sales ranged from \$492,974 to \$645,191.

The witness adjusted the comparable sales for personal property included in the transaction as well as any concessions provided by the seller. After determining a time adjusted sale price for each of the sales, additional adjustments for factors such as age, size, bathrooms, basement size and finish, basement walk-out features, garage size, fireplaces and land value were applied. Sale 1, located on the same street as the subject, had an adjusted value indication of \$619,766. Sales 2 and 4, both from Plum Creek Fairway, illustrated adjusted values below \$500,000. The witness's Sale 3, from a nearby and competing area, represented the high end of adjusted values at \$645,191. Based on these indications, Mr. Wilson concluded to a market value of \$570,000.

Respondent assigned a value of \$536,485 for the subject property for tax year 2015 and is submitting a site specific appraisal for a value of \$570,000 in support.

Mr. Barszcz contends the value of his home has been negatively impacted by the neighbor's use of his property for RV storage. The property is further damaged by the adjacent owner's plans to conduct concerts and allow camping on his property. Mr. Barszcz related conversations with local real estate agents pointing to problems with marketing the home because buyers will be deterred by the view of a storage yard from his windows. Mr. Barszcz related conversations with the neighbor that were fruitless and his complaints to law enforcement were unsatisfactory and even resulted in a threat to arrest him for continuing contact on the issue. Additional adverse influences on his property include low quality "tract" builder construction nearby and the limited number of quality custom

homes being developed in his subdivision. Mr. Barszcz stated that two potential buyers turned down visits to the home due to the RV storage. Petitioner also claims Respondent has incorrectly compared his home to other properties located on the golf course.

Respondent counters that the home is custom quality and although the home is not on the golf course, the development surrounds the course providing a significant amenity to the residents. Respondent's witness related conversation with the Town of Castle Rock and was informed that concerts and public camping are not allowed uses on the neighbor's property. Respondent notes Petitioners did not allow an interior inspection of the home which limited the county's access to the information. Pointing to Respondent's Exhibit A, page 6, an aerial view of the property taken from April to June of 2015, there is no visible storage in evidence on the neighbor's property. Finally, as indicated in Exhibit A, page 8, Respondent's witness correctly utilized base period data from the base period of January 1, 2013 to June 30, 2014 applied to the subject's condition as of January 1, 2015.

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

Although the Board finds merit in Petitioners' arguments relating to the negative effects on the property, the significant point in this hearing was Mr. Barszcz's statement that the difficulties with the neighbor's use of the adjoining property began in August and September of 2015. These activities took place beyond the effective date of value. Property taxes are determined in arrears, meaning the tax bill received in 2015 represents the value determined for the subject in the condition as it existed as of valuation date, January 1, 2015. As there was no evidence the adverse conditions existed on or before January 1, 2015, the petition is denied.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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).

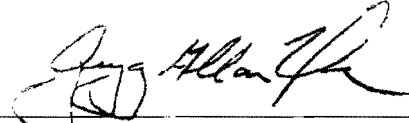
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

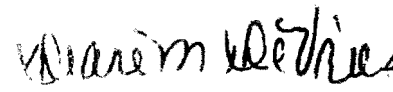
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 4th day of January, 2017.

BOARD OF ASSESSMENT APPEALS

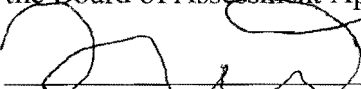


Gregg Near



Diane M. DeVries

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



Milla Lishchuk

