

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JOHN E. AND RUTH C. DONOVAN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>TELLER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 70274</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on December 14, 2017, Sondra Mercier and MaryKay Kelley presiding. John E. Donovan appeared pro se on behalf of Petitioners. Respondent was represented by Matthew A. Niznik, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**110 Dome Rock Trail, Florissant, Colorado  
Teller County Schedule No. R0007949**

The subject is a 2,288-square foot log home with basement and garage, well and septic. It was built in 2002 on a 35-acre site in the B Lazy M Ranch subdivision, which is comprised of 46 parcels, most of them 35 acres. It is a covenant controlled ranch defined as open range with three acres per parcel permitted for personal use; each has a 50-foot unfenced easement for hiking and horseback riding. The subject residence was built from a pre-cut kit with stone accents and metal roof. Surrounding terrain is mountainous, and views are spectacular.

Respondent assigned a value of \$390,578 for tax year 2017, which is supported by an appraised value of \$528,000. Petitioners are requesting a value of \$276,047 based on a market analysis.

Mr. Donovan testified that his valuation increased by 10% from 2016 even though he has made no changes or additions to the property. He built the house in 2002 as a weekend retreat and argued that the many custom-built homes in the subdivision reflected valuation increase.

Mr. Donovan researched the Teller County property records data base comprised of 10,000-plus properties. He filtered it for 35-acre parcels of ranches, 1 ½ and two-story homes for the July 1, 2013 through June 30, 2016 time frame, concluding to 23 properties. Considering a value between \$300,000 and \$325,000 appropriate, he selected his four comparable sales from the 23 properties.

Mr. Donovan's four comparable sales ranged in sale price from \$275,000 to \$420,000. He made adjustments for value increase (3.08% per year), construction quality and type, and physical characteristics, concluding to a range of adjusted values from \$186,315 to \$331,392. His value conclusion of \$276,047 was based on the mean.

Mr. Donovan, securing construction quality ratings from the assessor's office, disagreed with Respondent's assignment of "average" quality. He determined "fair-plus" quality based on the following: a purchased kit home rather than stick-built (eliminating sheet rock and stain); steel framing rather than rebar; a formed C-metal roof; Home Depot windows; Class C molding; Formica countertops; Home Depot cabinetry; and the absence of wood flooring.

Respondent's witness, Betty M. Clark-Wine, Ad Valorem Appraiser and Teller County Assessor, described the subdivision as a gated and "exclusive" with excellent views and open range with tax benefits from grazing (agriculturally classified).

Ms. Clark-Wine presented a Market Approach with four comparable sales ranging in sale price from \$360,000 to \$520,000. All were located in B Lazy M Subdivision and sold within the extended base period dating to January 2012. She selected Sale One for its proximity, similarity in size, and other characteristics. She selected Sale Two for its similarity in elevation (1 ½ story) and average quality construction; although a foreclosure, it was listed on the open market. She gave Sale Three little weight, as it sold to an employee, was not listed on the open market, and was questionably an arm's length transaction. Sale Four was an estate sale yet exposed to the open market and was in fair condition. Adjusted values ranged from \$389,836 (recalculated to delete the quality adjustment for Sale 3) to \$590,285.

Ms. Clark-Wine assigned 30% to Sales One, Two and Four, considered the median (\$511,520) and mean and concluded to a value of \$528,000.

Ms. Clark-Wine was denied interior access. She assigned "average" construction quality to the residence based on Petitioner's description; most pre-cut kit homes are assigned average quality unless very old; Formica does not preclude average condition; double pane windows are found in average-quality homes, and other materials are assumed average.

Ms. Clark-Wine discussed her time adjustments, which she derived from paired sales analysis (two sales each of 85 sales). She agreed that 8.6% per month time adjustment was significant but reflected the custom nature and high market demand of the subdivision.

Ms. Clark-Wine discussed Petitioners' comparable sales, noting that none were located in the subject subdivision. Petitioners' Sale One was a foreclosure, on the market for over 350 days, had neither appliances nor power, and was difficult to access due to a restricted driveway.

Sale Two's sale price represented half of the total sale price (divorce sale). Sale Three was a foreclosure with inferior access and requiring a significant topography adjustment. Sale Four was accessed by an owner-maintained easement road. Ms. Clark-Wine considered none to be comparable, primarily due to their locations outside the subdivision.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

The Board finds Respondent's appraisal to be more credible, primarily due to its comparable sales' locations within the subject subdivision. B Lazy M Ranch is unique for its open range setting and tax benefits from grazing, while none of Petitioners' comparable sales' ranches were similarly described and are assumed to have none of these amenities.

The Board finds Respondent's time adjustments well supported. Matched pairs, if no other factors are involved, are good indicators of value stability.

The Board acknowledges Petitioners' arguments for "fair-plus" construction quality as well as Respondent's reasoning for the assignment of "average", which was based on Petitioners' description without an interior inspection. The Board suggests an interior inspection be made. Also, should 5% adjustments be made to Respondent's comparable sales as suggested by Petitioners, adjusted values would not support a conclusion below the assigned value.

## **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 29<sup>th</sup> day of December, 2017.

**BOARD OF ASSESSMENT APPEALS**

*Sondra W. Mercer*

Sondra W. Mercer

*MaryKay Kelley*

MaryKay Kelley

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

*Milla Lishchuk*

Milla Lishchuk

