

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARNIE L. & DENNIS J. APPELHANS,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70404</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 12, 2017, Gregg Near and Debra A. Baumbach presiding. Petitioners appeared pro se. Respondent was represented by Frank Celico, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Petitioners and Respondent stipulated to the admission of Petitioners' Exhibit 1 and Respondent's Exhibit A as well as the admission of Mr. Michael W. Peterson as an expert witness.

Subject property is described as follows:

**561 Braddock Drive, Unincorporated Summit County, CO
Summit County Schedule No. 2800894**

The subject property is located in the Ten Mile Vista Subdivision, a submarket of the Swan River Valley neighborhood in unincorporated Summit County. The property is a ranch style residence consisting of 2,507 square feet of living area built in 1973. The residence is of average quality wood frame construction with a full walk-out finished basement. The home has 1,328 square feet on the main level with three bedrooms, two full bathrooms, living room, kitchen and dining area. The walk-out basement has 1,179 square feet of finished area with a second kitchen, two bedrooms, one full bathroom, living room and dining area, and 150- square foot mechanical room. There is an attached two car garage. The home site is on two acres with sloping topography, trees and typical views. There is a septic system, private well, gas and electric. Access is by a private gravel road.

Petitioners are requesting an actual value of \$625,000 for the subject property for tax year 2017. Respondent assigned a value of \$768,483 for tax year 2017 but is recommending a reduction in value to \$744,237 supported by an appraisal.

Petitioner, Mr. Appelhans, described the subject property as an average quality ranch style home consisting of 2,507 square feet split between the main living area and a finished walk out basement. The home was constructed from a building kit purchased in 1973. The exterior consists of 2X4 walls with batten board siding. The interior finish consists of the original windows, cabinetry, laminate counters, fixtures and finishes. The roof, exterior siding and garage doors have since been replaced. Mr. Appelhans testified the residence is situated on a two-acre site that originally offered unobstructed views that are now diminished because of increased housing development. In addition, the site has been adversely affected by beetle infestation destroying many of the trees and reducing the privacy.

Mr. Appelhans argued Respondent's analysis is flawed and valuation overstated; Respondent selected comparable sales that reported superior condition and substantial upgrades that are not present in the subject property whereby indicating an overvaluation.

Petitioner, Mr. Appelhans presented a comparative market analysis that he obtained from Nancy Lindblade GRI, RSPS, E-Pro, TI, Luxury Mountain Lifestyles/Metro Brokers in 2014. The analysis included seven listings and eleven sales in the general market area ranging in sale price and list price from \$320,000 to \$743,500 and in size from 1,323 to 3,644 square feet. The eleven sales sold between January 12, 2012 and February 12, 2014. Ms. Lindblade concluded to a median value of \$542,000 and a value of \$516,000 on a per square foot basis. Ms. Lindblade concluded to a selling price of \$544,300 for the subject property. Mr. Appelhans relied on Ms. Lindblade's recommended sale price of \$544,300 and applied Respondent's 0.40% per month time adjustment concluding to a value of \$602,500.

Mr. Appelhans also presented a statistical multivariable regression analysis to support his concluded value. A total of 23 sales were chosen from the general market area that sold during the base period. He limited his search criteria to sales that were similar in square footage, basement area, finish, garage space, construction type, year built and bedrooms. Mr. Appelhans testified that the variables impacting the value were for differences in square footage, year built and land area. The market did not perceive any additional value for bedrooms, bathrooms or garage area. Mr. Appelhans concluded to a value of \$622,204 for the subject property.

Mr. Appelhans argued that Respondent's sales were not comparable to the subject. He testified that the sales were superior in location, quality of construction, condition and views. Mr. Appelhans contended that Respondent's Sale 3 is the most comparable to the subject property.

Respondent presented a value of \$744,237 for the subject property based on the market approach. Respondent's witness, Mr. Michael W. Peterson, a Certified General Appraiser with the Summit County Assessor's Office, presented five comparable sales ranging in sales price from \$517,000 to \$731,500 and in size from 1,850 to 2,944 square feet. After adjustments for time, personal property, view, site size, square footage, basement area and finish, garage area, style,

heating systems, age, bedrooms and bathrooms, the sales ranged from \$509,997 to \$777,870. Mr. Peterson concluded to a value of \$744,237 for the subject property.

Mr. Peterson stated that he had requested an exterior and interior inspection of the subject property but was only able to perform an exterior inspection on October 20, 2017. In selecting the most comparable sales he limited his search criteria to sales within a two-mile radius from the Town of Breckenridge, on county maintained roads, built prior to 1985, of average grade construction, with square footage between 1,700 and 3,300, and on lots ranging in size from 0.8500 to 2.0300 acres. Mr. Peterson testified that there were a total of 15 sales within the subject's neighborhood within the applicable 24-month time period. He chose five sales within the neighborhood and made adjustments to the sales for differences affecting the value.

Mr. Peterson stated the subject's location is highly desirable because of the proximity to the Town of Breckenridge, golf course and Breckenridge Ski Resort. Properties in this neighborhood are subject to limited covenants, building restrictions and larger building sites.

Mr. Peterson contended Petitioners' market analysis is flawed as all the sales took place in the extended base period. No adjustments were made for differences in physical characteristics that affect the value and the analysis contains listings which are inappropriate for consideration. Respondent further disagreed with Petitioners' multivariable analysis because of the incomplete data that was presented in determining the relationship between the variables.

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). The Board finds that Petitioners did not meet their burden of proof. The Board considered the evidence and testimony presented by both parties and finds Respondent's market approach to be the most credible.

The Board finds Respondent's witness correctly completed a site-specific market appraisal of the subject property comparing sales of similar properties and adjusting them for differences in physical characteristics. Respondent's sales are similar in size, location, quality, condition and site size with market-extracted adjustments for differences affecting the value. All of Respondent's sales are recent and are located in the same market area representing market trends specific to that neighborhood.

The Board finds Petitioners' market analysis less credible. Petitioners' market analysis was prepared for the purpose of selling the subject property as of March 2014. These sales occurred in the extended based period and were not individually adjusted for differences in regard to market conditions (time of sale) or physical characteristics affecting the value. The Board gives little weight to Petitioners' concluded value based on the application of a time adjustment to the average sale price of the comparable sales. The Board finds this valuation methodology unpersuasive.

The Board was equally not persuaded by Petitioners' concluded value indicated by the multivariable regression analysis. Petitioners presented limited information regarding the data used in the regression model for the Board to determine if the data relied on in the analysis was complete

enough in supporting a value. Petitioners presented too few sales, none of which were confirmed by anything other than reliance upon County records and, most important, the sale prices were not considered for appreciation prior to their inclusion in the analysis. Moreover, Petitioners chose to adjust the conclusion of \$544,300 by the 0.4% figure to the valuation date but failed to apply the same appreciation factor to the sales used in Petitioners' multivariable regression analysis.

Relative to Petitioners' argument that the value of the subject property is diminished because of the lack of trees and privacy, Petitioners did not present the Board with evidence that the property's value has been adversely affected.

The Board concluded that the 2017 actual value of the subject property should be reduced to Respondent's recommended value of \$744,327.

ORDER:

Summit County is ordered to reduce the 2017 actual value of the subject property to \$744,327.

The Summit County Assessor is directed to change his/her 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 19th day of January, 2018.

BOARD OF ASSESSMENT APPEALS

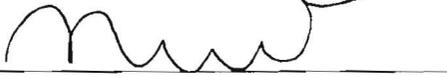


Gregg Near



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

