

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

Docket No.: 70642

Petitioners:

MICHAEL AND DIANE PHILLIPS,

v.

Respondent:

ELBERT COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 8, 2018, Gregg Near and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Bart Greer, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**10813 Winding Meadow Drive, Kiowa, Colorado
Elbert County Schedule No.: R110018**

The subject is a 1,756-square-foot raised ranch with a partially-finished basement, garage, barn, cabin, and shed. It was built in 1985 on a 7.74-acre site in Woodlands, a 31-lot Subdivision in rural Elbert County southeast of Denver.

Respondent assigned a value of \$380,000 for tax year 2017 but is recommending a reduction to \$360,000. Petitioners are requesting a value of \$321,000.

Petitioners described the subject residence as original to its 1985 construction, the only change being the conversion of 242 square feet of the 583-square-foot garage to partial living space. The solar system is inoperable; heat is via conventional electric baseboard.

Mr. Phillips commented on Respondent's valuation and adjustments: an interior inspection has not been made since 2003; Respondent's witness, Mr. Michael Akana, does not carry an appraisal license; comparable sales were "pulled out of the air"; the Property Record Card was revised "overnight" with some data being changed and some omitted; and the Assessor's staff had

inadequate knowledge of computer systems and technology. Mr. Phillips, therefore, argued that Respondent's appraisal adjustments and value conclusion could not be supported.

Petitioners calculated a \$153,104 increase in the subject's actual value from tax year 2015. They compared this to the \$100,000 average increase in actual value for all 31 Woodlands homes.

Ms. Phillips testified that the subject's assigned value for tax year 2017 (\$380,000) and Respondent's recommended value of \$360,000 were considerably higher than the average of actual values for the 31 Woodlands properties (\$322,800). She argued that this indicated the subject's values were incorrect.

Ms. Phillips presented eight Woodlands sales within the 24-month base period as used by Respondent, seven of them improved. Comparing their 2017 actual values to prior years' actual values, she reported 32% to 42% increases in comparison to the subject's 60% increase from tax year 2015. This, too, in her opinion, indicated that the subject's actual value was incorrect.

Ms. Phillips selected two Woodlands properties most similar in size to the subject residence, 10635 Winding Meadow Drive (1,628 square feet) and 26702 Green Acres Circle (1,871 square feet). Their actual values in 2017, respectively, were \$355,020 (an increase of 24% from 2016) and \$355,917 (an increase of 30% from 2016). She calculated the average of their actual values at \$355,469, confirming that the subject's actual value was too high.

Ms. Phillips argued that the Assessor ignored the sale of a property when assigning actual value. 26699 Green Acres Circle (a vacant site) sold in 2015 for \$45,000, yet its actual value remained the same at \$70,000.

Ms. Phillips compared the subject property to the highest-priced sale in the Woodlands (26580 Sherwood Forest Trail) with 3,124 square feet, a large barn, and a "spectacular" water feature (pond, bridge, waterfall). It sold in 2016 for \$454,900. Applying its \$145.61 per square foot to the subject's square footage, the subject's value would be \$247,682.61. This calculation, in her opinion, confirmed errors in Respondent's valuation.

Ms. Phillips discussed three non-Woodlands properties: 30573 Mountain View Trail (1,620 square feet on 8.22 acres) with an actual value of \$275,848; 22897 Eagle Drive (1,632 square feet on 5.05 acres) with a sale price of \$295,000; and 27501 Plainview Drive (2,592 square feet on 2.51 acres) with a sale price of \$340,000. After adjustments (difference in sizes from the subject times sale prices divided by the sales' square footages) she concluded to, respectively, \$289,640, \$296,247, and \$226,253 for an average of \$270,714, rounded. Ms. Phillips argued that this figure, compared to the subject's actual value of \$380,000, confirms errors in valuation.

Petitioners' requested value was based on the following: the average of actual values of the 31 Woodlands properties at \$322,800; the average of actual values of two similar Woodlands properties at \$298,000; the price per square foot of the highest sale in the Woodlands applied to the subject (\$247,683, rounded); the price per square foot of three non-Woodlands properties applied to the subject (\$270,714, rounded); and a rejected offer to stipulate at \$360,000.

Respondent's witness, Michael W. Akana, Ad Valorem Appraiser for the Elbert County Assessor's Office, presented a Sales Comparison Analysis without benefit of an interior inspection. He presented three comparable sales ranging in adjusted sale price (personal property and sales concessions subtracted) from \$310,000 to \$337,000. Adjustments were made for value increase, acreage, size, basement size and finish, garage size, effective year, bathroom count, patios/decks/paving, and outbuildings. Adjusted sale prices ranged from \$390,292 to \$397,456. Based on the median (\$392,330) and the mean (\$393,359), Mr. Akana concluded to a value of \$360,000.

Mr. Akana addressed several issues introduced by Petitioners. First, he stated that his Ad Valorem license expired at the end of 2016 and was then renewed. He also detailed his experience as appraiser and analyst since 2005. Second, he confirmed that an interior inspection of the subject residence had not been made. He was on the property in December of 2017, but his knock at the front door was not answered. Third, he testified that he was not aware of the partial garage conversion to living space. It might affect value but would require an interior inspection for verification.

Mr. Akana detailed the valuation process: for the Notice of Valuation, a mass appraisal with comparable sales generated by the computer for their similarity in a variety of features; for the appeal process (if so desired), a site-specific appraisal with comparable sales selected by the Assessor's staff and adjustments based both on appraiser experience and on statistical analysis. For example, Mr. Akana based his 1% per month time adjustments on two methodologies; statistical analysis of 947 qualified residential sales within a 24-month data collection period, and matched paired sales (two separate sales of the same property, all other features being similar). Adjustments for a variety of features (room count, garage size, fireplaces, etc.) were derived in the same way with input of thousands of components.

Petitioners presented equalization evidence, which, pursuant to Section, 39-1-103(5)(a), C.R.S., requires a market approach in order to be persuasive (*e.g.* for an equalization argument to be effective, petitioner must also present evidence or testimony that the assigned value of the comparable sales used were also correctly valued using the market approach). Use of the market approach shall require a representative body of sales, including sales by a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes.

The Board gives little weight to methodologies utilized by Petitioners, none of which are acceptable appraisal approaches to value such as: averaging; comparing the increase in actual value between the subject and other properties; comparing the percentage of increase between the subject and other properties; and application of actual value per square foot of another property to the subject.

Pursuant to Section 39-1-103(5)(a), C.R.S., Respondent's witness correctly completed a market approach to value, comparing sales of similar properties and adjusting for time, size, and a variety of physical characteristics. Application of statistical analysis for time and other adjustments

was well explained and is persuasive. Mr. Akana's experience as an appraiser and an analyst is persuasive. Respondent's market analysis is convincing.

In response to Petitioners' comments and questions, the Board finds as follows: an interior inspection would provide the Assessor staff considerable information in contrast to an exterior inspection; Mr. Akana confirmed the existence of his Colorado appraisal license (the expiration and renewal process is complex and often overlaps the calendar year); two of the three comparable sales were located within the subject subdivision, and the third was located in a similar, rural subdivision; the Board is convinced that Property Record Cards are updated when new information is gathered (the Board sees no conflict in this process); Mr. Akana convinced the Board that his knowledge of computer systems and technology, specifically statistical analysis, is excellent.

ORDER:

The Board concludes that the 2017 actual value of the subject property should be reduced to Respondent's recommended value of \$360,000.

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.

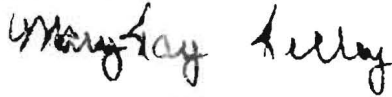
Section 39-8-108(2), C.R.S.

DATED and MAILED this 5th day of February, 2018.

BOARD OF ASSESSMENT APPEALS



Gregg Near



MaryKay Kelley

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



Milla Lishchuk

