

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARK AND ADRIENNE WILSON,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70853</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 10, 2018, Debra A. Baumbach and MaryKay Kelley presiding. Mark Wilson appeared *pro se* on behalf of Petitioners. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**8960 Big Canon Place, Greenwood Village, Colorado
Arapahoe County Schedule No. 2075-15-3-02-068.**

The subject is a 3,987 square-foot two-story residence with basement and garage. It was built in 1982 on a 33,498 square-foot site in the Big Canon Subdivision. Petitioners purchased it in April of 2015 for \$755,000.

Respondent assigned a value of \$837,600 for tax year 2017, which is supported by an appraised value of \$867,200. Petitioners are requesting a value of \$745,000.

Mr. Wilson considered the 2015 sale of the subject property at \$755,000 to be the best indicator of value. His requested value of \$745,000 reflects Respondent's contention that values increased throughout the base period.

Contrary to Respondent's opinion about market values, Mr. Wilson argued that values in Big Canon Subdivision decreased throughout the base period. He disagreed with Respondent's comparable sale search outside the subject subdivision.

Mr. Wilson discussed the subject's location at the high-traffic intersection of DTC Boulevard and Orchard Road, arguing that Respondent did not adequately adjust for traffic influence. Further, he disagreed with Respondent's assignment of the house as "B grade" construction/condition, calling it fair or poor and equating to a "C grade". He described it as follows: poor landscaping and an inoperable sprinkler system; an asphalt driveway in comparison to the neighborhood's typical concrete; inoperable air conditioning unit and hot tub; a dated interior; the presence of radon; and miscellaneous deferred maintenance.

Based on this description of the subject property, Mr. Wilson stated that Respondent's comparable sales should have carried additional adjustments. He described Sale One as follows; superior location, remodeled in 2006, paved driveway, superior landscaping and features (pizza oven/firepit/pergola). He described Sale Four as follows; less traffic influence, superior valuation grade, remodeled in 2009, larger with more bedrooms, paved driveway, and superior landscaping. He described Sale Five as follows; superior valuation grade, mountain views, paved driveway, and superior landscaping.

Mr. Wilson presented 5645 Big Canon Drive as a good comparable sale rejected by Respondent. It sold on December 16, 2015 for \$650,000. Making adjustments for market decline (.08% per month), its superior interior location (\$45,000), its superior "B+ valuation grade" (\$150,000), larger lot (\$50,000), paved driveway (\$25,000), superior landscaping (\$50,000), and miscellaneous, he concluded to an adjusted value for this property of \$511,160. Mr. Wilson did not present a market grid with adjustments for these features.

Respondent's witness, Nicholas Chantala, Registered Appraiser with the Arapahoe County Assessor's Office, presented a Sales Comparison Analysis with five sales. In addition to the sale of the subject property at \$755,000, remaining sale prices ranged from \$811,000 to \$930,000. After adjustments, which were based on paired sales analysis, multiple regression analysis, and appraiser judgment, sale prices ranged from \$831,630 (subject property) to \$922,370. Mr. Chantala concluded to a weighted value of \$867,200.

Mr. Chantala based his adjustments for value decline on a linear regression analysis using the subject subdivision and five others within one mile (51 qualified sales). His initial research concluded to an increase of 1.50% per month. A second analysis focused on two-story homes and concluded to an increase of .08% per month.

Mr. Chantala, without benefit of an interior inspection, based the subject's "B" valuation grade on file history (quality of construction and finishes), MLS photos from the 2015 sale, and an exterior inspection from the street.

With regard to the subject's proximity at the intersection of DTC Boulevard and Orchard Road, Mr. Chantala noted that Sale Four was similarly impacted. His adjustments were based on paired sales analysis, multiple regression analysis, and appraisal judgment.

Mr. Chantala did not consider 5645 Big Canon Place to be a reliable comparison for two reasons; it was not available on the open market (MLS), and it had been a rental property with a lease in place that continued for twenty months after the date of sale.

It is the burden of the protesting taxpayer to 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). Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

Section 39-1-103(8)(a)(I), C.R.S. indicates: "Use of the market approach shall require a representative body of sales, including sales of 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."

Respondent presented a convincing market approach. While Petitioners offered both revised and additional adjustments for Respondent's sales, support was not market based and less convincing. Although Petitioners also offered additional sales, the Board found none to be more reliable than those used by Respondent.

While opinions differ regarding market change (increasing versus decreasing values), the Board finds Respondent's position to be well supported by market analysis. Mr. Wilson, convinced of value decline in his subdivision, provided no market data to support this.

Petitioners disagreed with Respondent's assignment of a "B" valuation grade but presented no convincing data to support their "C" designation. The Board encourages Petitioners to allow an interior inspection by the Assessor's appraisal staff. While the Board acknowledges concerns about privacy, refusal to allow an interior inspection is a significant obstacle for Respondent's appraiser, requiring him/her to make extraordinary assumptions about interior features and physical condition.

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 25th day of May, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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

