

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RANDY MARK BAUER & WINIFRED SUE BAUER,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71665</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 12, 2018, Cherice Kjosness and Debra A. Baumbach presiding. Mr. Randy Mark Bauer appeared on behalf of Petitioners. Respondent was represented by Megan Taggart, Esq. Petitioners are protesting the 2017 actual value of the subject property.

The parties stipulated to the admission of Petitioners' Exhibit 1 and Respondent's Exhibit A.

Subject property is described as follows:

**10022 Oak Tree Ct, Lone Tree, CO
Douglas County Schedule No: R0371159**

The subject property is a semi-custom 4,605 square foot two-story home with a 2,414 square foot walk-out basement built in 1995. The property is situated on an 18,644 square foot lot in a gated golf course community known as Heritage Hills Estates.

Petitioners are requesting an actual value of \$1,182,058 for the subject property for tax year 2017. Respondent assigned a value of \$1,461,133 for tax year 2017.

Petitioner, Mr. Bauer, presented three comparable sales ranging in sales price from \$925,000 to \$1,201,500 and in size from 3,844 to 4,795 square feet. No adjustments were made for differences in property characteristics and one of the sales took place in the extended base period.

Petitioner testified that the subject property was built in 1995 using EIFS (Exterior Insulation Finishing Systems), a synthetic exterior siding material. Mr. Bauer contended that the subject property and other properties built during the same time frame in the subdivision contain EIFS siding. According to Mr. Bauer, there is a class action lawsuit against the manufacturer because of elevated moisture levels behind the siding causing mold and internal structural damage that may not be evident from a visual inspection. Mr. Bauer testified that he has not engaged a professional to inspect the property for signs of potential damage or to obtain cost estimates for remediation.

Mr. Bauer argued that three out of six comparable sales used by Respondent in the valuation analysis are newer built custom homes that do not contain EIFS materials. Additionally, per Mr. Bauer, Respondent failed to make any adjustments to account for stigma associated with EIFS materials. Mr. Bauer testified the sales he presented were built in a similar time frame containing the same defective EIFS materials. He argued that his sales reflect a lower value range supporting there is stigma associated EIFS.

Mr. Bauer testified that he rejected Respondent's request for an onsite inspection of the subject property because the appraiser did not see the interior of the comparables. He felt this kept the analysis on a "level field."

Petitioners are requesting a value of \$1,182,058 for the subject property for tax year 2017.

Respondent's witness, Becky Fischer, Certified Residential Appraiser and appraisal manager with Douglas County Assessor's Office, presented an indicated value of \$1,580,000 based on the market approach. Ms. Fischer testified that a site-specific appraisal was completed by Mr. David Buchanan, a former employee with Douglas County. Ms. Fischer testified that she reviewed Mr. Buchanan's report and agreed with the sales used in the analysis and the adjustment calculations. Ms. Fischer stated that she has also completed an exterior inspection of the subject property and comparable sales. Ms. Fischer presented six sales ranging in sales price from \$1,135,000 to \$1,950,000 and in size from 3,629 to 4,507 square feet. After adjustments for differences in property characteristics the sales ranged from \$1,339,098 to \$1,953,827. Ms. Fischer gave most weight to Sales 1 and 2 and concluded to a value of \$1,580,000.

Ms. Fischer testified that Sale 2 is also one of Petitioners' sales and that the two other sales presented by Petitioners were not considered because one sale is located adjacent to a busy street requiring excessive adjustments, and the other sale occurred in the extended base period. Ms. Fischer stated that there were sufficient sales during the primary base period that it was not necessary to use sales in the extended time frame.

Ms. Fischer testified that Petitioners denied the request for an onsite inspection and that she was unaware of any issues relating to EIFS siding at the subject property or other properties in the subdivision. Ms. Fischer stated that the assessor's office does not consider any future potential risk factors that are not confirmed during the assessment cycle in the valuation process.

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessment*

Appeals v. Sampson, 105 P.3d 198, 202, 208 (Colo.2005). The Board finds that Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for 2017.

The assessor must determine the actual value of residential real property solely by considering the market approach to appraisal. This approach requires the assessor to determine what a willing buyer would pay a willing seller under normal economic conditions. *Matthews v. Jefferson Cnty. Bd of Equal.*, 10 CA 2077 (2011). The Board finds Respondent's evidence and testimony to be the most credible. Respondent's witness correctly completed a site-specific market analysis of the subject property comparing sales of similar properties and adjusting the sales for differences in property characteristics.

The Board finds that comparing sales affected by EIFS siding to those sales not affected is optimal in supporting an adjustment for the defective siding. Although Petitioners argued that their sales support a lower value because of EIFS siding, the Board finds Petitioners' market analysis less credible. The Board finds that Petitioners' sales lack sufficient information and were not individually adjusted for differences in market conditions (time of sale) or physical characteristics affecting the value to extract an adjustment, if any, attributed to EIFS siding. In addition, Petitioners did not provide any supportive documentation that the sales were negatively impacted by the defective siding. Further, Petitioners did not present any documentation from a qualified inspector as cost estimates for remediation or the impact on value and marketability. Petitioners did not convince the Board an adjustment is supported by the market for EIFS siding.

The Board gave consideration to Petitioners' sale located at 10114 Stoneglen Trail. Petitioners only provided the sale date, sale price and above grade living area. The Board applied Respondent's adjustment calculations for market conditions (time of sale) and above grade living area which indicated a value supported by Respondent's assigned value. Additionally, both parties considered the sale located at 8425 Colonial Drive which was affected by EIFS siding. The Board finds that Respondent made appropriate adjustments and these sales support the assigned value.

Finally, the Board was troubled by Ms. Fischer's statement that potential problems are not considered by the assessor's office. The market approach requires the appraiser give appropriate consideration to potential building hazards that affect the quality of construction for any property. The siding issue would have to be disclosed if the house went on the market, and might limit the number of market participants, the marketing time, or even the price paid.

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).

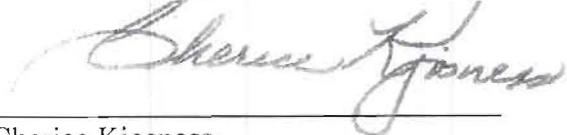
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 3rd day of July, 2018.

BOARD OF ASSESSMENT APPEALS

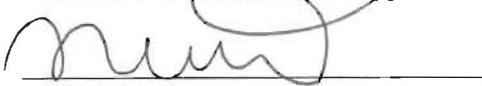


Cherice Kjosness



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

