

<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>MICHELE DIMUZIO AND BARNEY MORAN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 75083</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals May 3, 2019, Debra Baumbach and MaryKay Kelley presiding. Barney Moran appeared pro se on behalf of Petitioners. Respondent was represented by Michael Koertje, Esq. Petitioners are protesting the 2018 actual value of the subject property.

The Board admitted Petitioners’ Exhibits 1-3 and Respondent’s Exhibit A into evidence.

Subject property is described as follows:

**4211 Piedra Place, Boulder, Colorado  
Boulder County Schedule No. R0077144**

The subject is a 1,532 square-foot residence with a finished basement and an attached garage. It was built in 1979 on a 9,022 square-foot lot in the Palo Park Subdivision of unincorporated Boulder County.

Respondent assigned an actual value of \$609,600 for the subject property, which is supported by an appraised value of \$670,000. Petitioners are requesting a value of \$500,000.

Mr. Moran described the home’s proximity to Four Mile Creek, which lies within a FEMA-designated floodway with recurrent flooding, most significantly in the historic event of 2013. The subject site borders a FEMA-designated 100-year flood zone and is also affected by a subterranean high water table, which, according to Mr. Moran’s testimony, has resulted in basement flooding. Mr. Moran reported flooding six times in the last five years. Two sump pumps have new motors and a

dedicated electrical line. A local alarm and an internet sensor notify him of sump pump or electrical failure. Ground level PVC pipes direct the water away from the house. Petitioners installed a radon system to address the exposure to incoming gasses.

Petitioners argue that marketability and value is impacted by the existence of the high water table and unrelenting flooding. Unable to define a specific impact in the marketplace, their request of \$500,000 is based on the subject's actual value for tax year 2017.

Respondent's witness, David Arthur Martinez, Ad Valorem Appraiser for the Boulder County Assessor's Office, inspected the subject property multiple times. He agrees with Petitioners' description of problems caused by the high water table, which ebbs and flows intermittently. He also verified flooding elsewhere in the subdivision.

Mr. Martinez presented a Sales Comparison Analysis with five subdivision sales. The sale price range was \$585,000 to \$625,000. He included Sale Two specifically for its similar water table situation, basement flooding, and sump pump mitigation. It sold for \$620,000. The five sales were adjusted for a variety of items, and the adjusted sale price range was from \$656,490 to \$686,016, Sale Two's adjusted sale price being \$670,054. Mr. Martinez placed greatest weight on Sale Two, concluding to an appraised value of \$670,000.

Mr. Martinez, on questioning, discussed his attempt to quantify the impact of high water tables and flooding, concluding that an insufficient number of sales was available for a regression analysis, which requires a minimum of 30 sales. Agreeing that marketability and value is impacted, he was confident relying on Sale Two, which is similarly impacted. It lies mid-range of all five sales.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2018.

The Board is convinced of the presence of a high water table and associated flooding. It is not persuaded that the actual value should be lowered to the 2017 actual value as requested by Petitioners; there is no support for this methodology.

The Board is confident that Respondent's market analysis is the most reliable method of value. Absent modeling, due to insufficient data, Mr. Martinez' reliance on Sale Two is warranted.

**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 16th day of May, 2019.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra 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

