

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PAUL R. JANZEN,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 47995</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 29, 2008, James R. Meurer and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**62213 Charolais Drive, Montrose, Colorado
(Montrose County Schedule No. R0011050)**

The subject property consists of a 2,417 square foot single-family, 2-bedroom, 2.5-bathroom ranch style residence built in 1987 and situated on a 2.00-acre site. The subject property has functional obsolescence due to a former attached garage conversion to a home office. The subject has a detached two-car garage.

Based on the market approach, Petitioner presented an indicated value of \$290,000.00 for the subject property.

Petitioner purchased the subject property on April 12, 2005 for \$272,000.00. Petitioner presented an appraisal with an effective date of May 23, 2006. The Board considered the appraisal for the data contained therein, but did not consider the value conclusion contained in the appraisal,

as the appraiser was not present to be questioned. The appraisal contained three comparable sales ranging in sales price from \$264,000.00 to \$350,000.00 and in size from 1,836 to 2,913 square feet.

Petitioner also presented a comparable sale located at 61775 Merimac Lane that sold on May 16, 2006 for \$270,000.00. The comparable is a 3-bedroom, 2-bathroom, one-story residence built in 2000, 2,112 square feet in size with central air conditioning, situated on a 1.33-acre site, and located about 1.5 miles from the subject in a similar development. Petitioner contends this sale is much better than any of the sales presented by Respondent; it requires little adjustment.

Petitioner does not believe Respondent has applied a proper time-adjustment factor to either the subject property or the comparable sales. The appropriate 18-month data collection period is from January 1, 2005 to June 30, 2006. Respondent applied a 1.48% per month, or 18% time adjustment to the subject property's sales price to determine the assigned value.

Petitioner testified that two of Respondent's sales are suspect. Comparable Sales 3 and 4 sold for much more than the subject property and Comparable Sale 3 has a barn. The amount of adjustments is too high.

Petitioner is requesting a 2007 actual value of \$290,000.00 for the subject property.

Respondent's witness, Teri A. Warner, a Certified Residential Appraiser with the Montrose County Assessor's Office, did not present an appraisal, but used mass appraisal data to determine if the subject property's value was reasonable. Ms. Warner did not inspect the subject property or the comparable sales, choosing to rely upon assessor records.

Respondent presented four comparable sales including the subject property sale, ranging in sales price from \$272,000.00 to \$333,400.00 and in size from 1,930 to 2,392 square feet. After adjustments were made, the sales ranged from \$328,576.00 to \$357,612.00. Ms. Warner testified that she looked for sales of similar size, age, and location in the same general area of the subject with similar amenities, views, and town access. Sales 2 and 3 have electric radiant heat, same as the subject. The subject property is located in the most desirable area of the county. Ms. Warner testified that the time trend analysis was determined and approved by the state. Ms. Warner did not estimate a value for the subject property, noting that the subject property's assigned value falls within the range of the adjusted sales.

Respondent assigned an actual value of \$326,090.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007.

The primary difference between the presented valuations rests on the time adjustment factor applied to Respondent's sales. Respondent's time adjustment is large and the Board takes notice that Respondent presented no sales beyond September 2005. Petitioner presented three sales that occurred within one month of the level of value date of June 30, 2006. The Board gave most weight to these sales as the affect of Respondent's time adjustment is minimal.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$300,000.00.

Respondent presented statistical evidence to support the subject property value based on equalization and mass appraisal data. Equalization is not a proper means of evaluating the value of a specific property. While the statistical analysis of the county as a whole may meet audit requirements, such an analysis does not guarantee that each individual property is valued correctly.

“Our state constitution and statutes make clear that individual assessments are based upon a property’s actual value and that actual value may be determined using a market approach, which considers sales of similar properties.” *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$300,000.00.

The Montrose County Assessor is directed to change his 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 Colorado Revised Statutes (“CRS”) section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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 CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

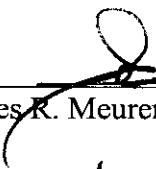
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.


Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 3rd day of July 2008.

BOARD OF ASSESSMENT APPEALS



James R. Meurer

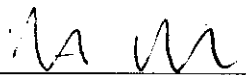


Karen E. Hart

This decision was put on the record

JUL 03 2008

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



Heather Heinlein

