

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SUSANNE HEDDEN,</p> <p>v.</p> <p>Respondent:</p> <p>ELBERT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48016</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 17, 2008, Karen E. Hart and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by Mark H. Scheffel, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3935 Banner Court, Parker, Colorado
Elbert County Schedule No. R103582**

The subject is a ranch/modular single-family residence with a gross living area on the main level of 1,068 square feet and a 636-square-foot finished walk-out basement. The building was constructed in 1986 and is situated on a 5.254-acre site. The residence has 3 bedrooms, 1 ½ baths, an evaporative cooler, a 2-car built-in garage, and a wood deck. There are 2 small metal storage buildings on the site.

Petitioner presented an indicated value of \$175,000.00 for the subject property.

Petitioner presented an appraisal on the subject property accomplished by Steven K. Hooper, a Colorado Licensed Appraiser. The date of the appraisal was July 12, 2007. The data collection period for tax year 2007 was January 1, 2005 through June 30, 2006 and the level of value date is June 30, 2006. Respondent objected to the admission of the appraisal. The Board concurred and the

appraisal was not admitted into evidence since the appraisal's date of value post-dated the level of value date and all of the comparable sales presented were beyond the data collection period.

Petitioner testified that the Elbert County Assessor did not give consideration to the adverse impact upon the value of her property attributable to traffic. She testified that her property is located adjacent to County Road 17 and that this road experiences a high volume of traffic at excessive speeds with traffic mostly from the nearby Spring Valley Ranch residential subdivision. Petitioner's appraiser presented comparable sales data from the general area from 2008 that indicated a diminution in value attributable to the adverse effect upon property value from traffic. The Board gave no weight to the sales information and estimated percent impact due to traffic as the data presented was beyond both the level of value date and the assessment date, January 1, 2007, for tax year 2007.

Petitioner testified that her property will incur an adverse impact upon value as a result of the development of the large residential subdivision Spring Valley Ranches and the potential approval of another large residential subdivision development of Spring Valley Vistas. She testified that the adverse impact upon value will result from the potential loss of groundwater resources through the increase of residential subdivision growth in the area.

Petitioner's witness, Mr. Richard Miller, Director of Elbert County Community Development Services, testified that before any approval is given to future development, a review process of the water supply issue occurs. Mr. Miller testified that through a review of the water issue in the area by Colorado Water Resources it was concluded that there will be no adverse effect upon surrounding wells as a result of the proposed Spring Valley Vistas development.

Without any specific sales data to indicate a decrease in value in the subject area during the base period, the Board concludes that no adjustment for potential loss of water resources is warranted.

Petitioner is requesting a 2007 actual value of \$175,000.00 for the subject property.

Respondent presented an indicated value of \$216,260.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$232,000.00 to \$295,000.00 and in size from 1,056 to 1,238 square feet. After adjustments were made, the sales ranged from \$209,460.00 to \$259,410.00.

Respondent's appraiser, Mr. William D. Howlett, Registered Appraiser with the Elbert County Assessor's Office, testified that no adverse impact upon value exists with traffic volume on County Road 17. He testified that the traffic influence is minimized since the improvements are set back from the road approximately 50 to 75 feet. He further testified that Comparable Sale 1 is located on County Road 186 and incurs traffic volume comparable to the subject. Respondent's appraiser testified that Comparable Sale 2 with an adjusted sale price of \$209,460.00 was the best comparable sale.

Respondent assigned an actual value of \$216,260.00 to the subject property for tax year 2007.

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

The Board concluded that no adjustments for location near County Road 17 or potential loss of water resources were supported, however the Board agreed that Comparable Sale 2 was the best comparable sale. The sale price for this comparable sale required the least number of adjustments to derive a value indication.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$210,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$210,000.00.

The Elbert County Assessor is directed to change his/her 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 CRS § 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 § 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.

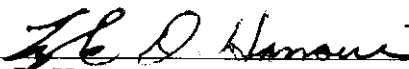
CRS § 39-8-108(2) (2008).

DATED and MAILED this 16th day of December 2008.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

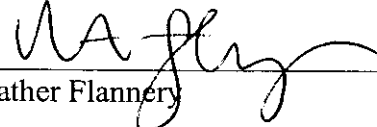


Lyle D. Hansen

This decision was put on the record

DEC 15 2008

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



Heather Flannery

