

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DONALD L. & SHARON A. FINK,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION</p>	<p>Docket No.: 48078</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 16, 2008 Karen E. Hart and Debra A. Baumbach presiding. Donald L. Fink appeared pro se for Petitioners. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5080 Clarkson Street, Englewood, Colorado
(Arapahoe County Schedule No. 2077-11-3-00-001)**

The subject property is a vacant lot consisting of 1.52 acres. The site is gated and fenced with paved access. There is a 342-square-foot garage located on the site. There is overhead power, city water, and natural gas; there is no sewer tap.

Mr. Fink testified the site has been overvalued by Respondent. There was not adequate consideration give to the degree of traffic noise due to the location and access. The site is influenced by two busy streets, South Clarkson Street to the west and East Bellevue Avenue to the south. There is deferred maintenance on properties surrounding the subject as well as foreclosure properties in the immediate area.

Petitioners presented no sales for the Board’s consideration. Petitioners reviewed sales within the area along with the sales used by Respondent and do not believe there are suitable

comparable sales. Petitioners tracked sales within the subject's zip code through MLS for 2005 and the first two quarters of 2006. Through the analysis a 7.4% inflation rate factor was indicated. Petitioners used the prior appraised value of \$330,000.00, applied a 7.4% inflation rate, and a 5% adjustment for size and condition for an indicated value of \$370,920.00.

Petitioners are requesting a 2007 actual value of \$370,920.00 for the subject property.

Based on the market approach, Respondent presented an indicated value of \$412,288.00 for the subject property. Respondent's witness relied on nine vacant land sales ranging in sales price per unit from \$536,363.64 to \$1,300,000.00. The sales were selected for their location relative to the subject. Sale 1 sold twice during the base period and Sale 9 was part of a multi-parcel sale with each parcel consisting of 1.03 acres.

Mr. Stephen Bonner, Deputy Assessor with Arapahoe County Assessor's Office, testified he relied on Sale 9 which is located down the street from the subject and is the closest in size, at a value of \$400,000.00 per acre. An adjustment was then made for location and access for an indicated value of \$270,000.00 per acre. A minimal contributory value of \$1,888.00 for the garage was also applied.

Respondent assigned an actual value of \$412,288.00 to the subject property for tax year 2007.

The Board gave little weight to Petitioners' inflation rate analysis to derive a value for the subject property. This analysis would be appropriate in determining an adjustment for market conditions however, is not an appropriate methodology in determining a value conclusion.

All real property in Colorado is valued using the market, cost, and income approaches to value. CRS § 39-1-103(5)(a). The cost approach is not appropriate for the subject property because it is vacant land; since the subject property is not an income producing property, the income approach is also not appropriate. Therefore the value of the subject property should be determined using the market approach. The market approach considers confirmed, arm's-length sales of comparable properties. *See 3 Assessor's Reference Library: Land Valuation Manual 3.26 (2006)*. For tax year 2007, these sales should occur during the data gathering period from January 1, 2005 through June 30, 2006. *See CRS § 39-1-104(10.2)(d)*.

The Board agrees that the sales presented by Respondent were comparable to the subject property and that the adjustments made to those sales were appropriate. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007.

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 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 October 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

This decision was put on the record

OCT 15 2008

Debra A Baumbach

Debra A. Baumbach

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

Heather Flannery
Heather Flannery

