

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 48242

Petitioner:

JAMES & CAROLYN WESTERVELT,

v.

Respondent:

**MONTROSE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 1, 2008, Karen E. Hart and James R. Meurer presiding. Petitioner was represented by Ms. Kareena Foulk as agent for and daughter of Petitioner. Respondent was represented by Ms. Carolyn Clawson, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1811 Senate St. Montrose, Colorado
(Montrose County Schedule No. R0018955)**

The subject is a single-family detached house located in Filing No. 2 of the American Village Subdivision in the city of Montrose. The house is ranch style, was constructed in 2006, and has a three-car garage with bonus room above. According to county records, there are three bedrooms and three and one half baths and the effective square footage for the subject is 3,010 square feet. The house has gas hot water heat and an evaporative cooler. Site size is 22,379 square feet. Both Petitioner and Respondent agree as to the physical characteristics of the subject.

Based on the market approach, Petitioner presented an indicated value of \$372,610.50 for the subject property.

Petitioner presented three comparable sales ranging in sales price from \$312,000.00 to \$375,000.00 and in size (effective square footage) from 2,810 to 3,087 square feet. After time adjustments were made, the sales ranged from \$325,104.00 to \$387,375.00 or \$81.00 to \$107.00 per effective square foot. Petitioner testified that all of the sales were in close proximity to the subject, were all custom construction, and all sold as new construction.

Petitioner is requesting a 2007 actual value of \$372,610.50, which equates to \$99.50 per effective square foot using 3,010 square feet plus a time adjusted land value of \$73,115.50 for the subject property.

Respondent presented an indicated value of \$397,070.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$345,000.00 to \$375,000.00 and in size (living area main floor) from 2,275 to 2,608 square feet. After adjustments were made, the sales ranged from \$383,235.00 to \$391,180.00. Major adjustments to Respondent's comparables were for bonus area square footage and garage.

Respondent assigned an actual value of \$397,070.00 to the subject property for tax year 2007.

The major point of disagreement between Petitioner and Respondent were the comparable sales used in the analysis including Respondent's lack of use of Petitioner's Comparable Sale 2 located at 2033 Constitution Loop. This comparable included a bonus room above the garage similar to the subject. Respondent argued that Comparable Sale 3 used by Petitioner was not an arm's-length transaction. Petitioner and Respondent do agree concerning the time adjustments to the sales.

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

The Board notes that the assigned value of \$397,070.00 exceeds the range of the adjusted comparables indicated in Respondent's assessment analysis. The Board also notes that the "Assessment Analysis" provided by Respondent was not a property specific appraisal.

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 determine using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

Respondent did not inspect the subject property or the comparables sales used in their analysis. The lack of research and due diligence on Respondent's behalf causes the Board to give less weight to their testimony and exhibits.

Petitioner's Sale No. 2 located at 2033 Constitution Loop is the best comparable given its location and bonus room above the garage. Based on this conclusion, the value of the subject is estimated at \$103.00 per effective square foot. The Board concludes to a value of \$385,000.00 for the subject using 3,010 effective square feet at \$103.00 per square foot plus the time adjusted land value of \$75,000.00.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$385,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$385,000.00.

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 28th day of May 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

[Signature]

James R. Meurer

This decision was put on the record

MAY 28 2008

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

[Signature]

Heather Heinlein

