

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALLEN FAMILY TRUST</p> <p>v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48848</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 7, 2008, Karen E. Hart and James R. Meurer presiding. Mr. Larry G. Allen, son of Eloner I. Fabbri, trustee, appeared on behalf of Petitioner. Respondent was represented by Ms. Teresa Williams, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**100 Monte Vista Drive, Pagosa Springs, Colorado
(Archuleta County Parcel No. 558336208006)**

The subject is a single-family detached house located in the Pagosa Highland Estates subdivision in Pagosa Springs. The house is ranch-style with an 888-square-foot, walkout lower level and was constructed in 2005. It is frame construction with a stucco exterior and a metal roof. Living area square footage is 1,035 square feet and there are 2 bedrooms and 2½ baths. There is a one-car attached garage. Lot size is 11,450 square feet.

Based on an equalization analysis and market approach, Petitioner presented an indicated value of \$232,490.00 for the subject property.

Petitioner provided a sales ratio analysis of 35 homes that sold in the Pagosa Highland Estates subdivision during the base period to support their value of \$232,490.00. Petitioner compared the sales prices to the values assigned to those homes by the Archuleta County Assessor. Mr. Allen testified that the basis of the appeal was that the assessment of these sales fell outside of the state specifications for sales ratios. Petitioner also presented an equalization argument, comparing the assessed values of the 35 properties to the value assigned to the subject property.

“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). The Board gave little weight to the sales ratio analysis and equalization argument presented by Petitioner. The Board can consider an equalization argument if evidence or testimony is presented which shows the Board that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued by the assessor. Since that evidence and testimony was not presented, the Board gave little weight to the equalization argument presented by Petitioners. However, Petitioners’ sales ratio data does appear to indicate a *possible* inequity in assessment within the subject property subdivision, which the Board has no authority to pursue.

Petitioner presented ten comparable sales which sold in the Pagosa Highland subdivision during the base period ranging in sales price from \$148,285.00 to \$300,000.00. Petitioner made no adjustments to these sales, and indicated a value for the subject property based on a median price per square foot of the ten sales. The Board gave little weight to Petitioner’s indicated value as this was not proper appraisal methodology. Petitioner did not provide the Board with enough details of these sales (i.e. location and amenities) in order for the Board to make adjustments to the sales.

Mr. Allen further testified that Respondent’s adjustments to their sales were not supportable. Mr. Allen also argued that Respondent should not have used comparable sales from other subdivisions to value the subject property as there were enough sales located within the subject subdivision from which to determine the market value.

Petitioner is requesting a 2007 actual value of \$232,490.00 for the subject property.

Respondent presented an indicated value of \$255,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$210,000.00 to \$285,000.00 and in size from 824 to 1,424 square feet. After adjustments were made, the sales ranged from \$252,000.00 to \$257,000.00. Major adjustments to Respondent’s comparables were for date of sale (time), site size, quality of construction, age, living area square footage, basement, garage, fireplace, and upgrades. Time adjustments were based on 0.25% per month. Respondent placed most weight on Comparable Sale 1.

Respondent’s witness, Robert G. Randolph, a Licensed Appraiser with the Archuleta County Assessor’s Office, testified that the predominant characteristic for the subject property is a finished walkout basement. He included comparable sales from other subdivisions in order to locate sales of

similar houses with basements; less than ten percent of homes in the county have basements and less than four percent have a finished walkout basement. Comparable Sale 1 has superior upgrading and the least amount of adjustments. Sale 2 is much older than the subject and has a large net adjustment. Sale 3 has a lake location and overall upgrading. Mr. Randolph testified that his garage space and fireplace adjustment came from conversations with local realtors. Mr. Randolph placed most weight on Comparable Sale 1.

Regarding the time adjustment, Mr. Randolph testified that his 0.25% per month adjustment was the result of an appreciation analysis that showed a very subtle rate of appreciation particularly in the Pagosa Lakes area.

Respondent assigned an actual value of \$255,183.00 to the subject property for tax year 2007.

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

The Board concludes that Respondent's market approach accurately reflects value for the subject. The comparables used by Respondent are located in the subject neighborhood, are reflective of the market, and the adjustments to the comparables are supportable. Mr. Allen objected to the use of Respondent's Comparable Sale 2 as he felt it was an inferior quality home and there were too many adjustments made to the sales price. The Board notes that even if this sale was given no weight in the analysis, the assigned value is still supported by the remaining two sales.

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 10th day of December, 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

[Signature]
James R. Meurer

This decision was put on the record

DEC 09 2008

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

[Signature]
Heather Flannery

