

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>STEVEN J. BREHM,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 51463</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 15, 2010, Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by David Wunderlich, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2006 and 2007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1725 Alkire Street, Golden, Colorado
(Jefferson County Schedule No. 032057)**

The subject property consists of a single family ranch style dwelling built in 1961. The dwelling has 1,632 square feet above grade with an 807 square foot basement.

Petitioner did not present any comparable sales.

Petitioner first noticed water intrusion in the basement of the subject property in 2003 and thought he had caused the problem. In 2004, the water intrusion increased and Petitioner started to investigate the cause of the problem. The domestic water supply company, The Consolidated Mutual Water Company inspected the subject property in 2006 and determined the water was not chlorinated and therefore was not caused by a broken water pipe. Petitioner believes the water

intrusion is caused by the nearby agricultural ditch owned by Agricultural Ditch and Reservoir Company (The Ditch Company).

Petitioner testified that there is extensive water damage to the basement. There is a basement sump pump that is overwhelmed by the water intrusion particularly in May and June of each year. Petitioner removed the carpeting in the basement and some floor tiles due to the water damage. Petitioner no longer has use of the basement as a recreational room due to the water intrusion.

The subject property has mold in the basement and Petitioner is concerned that there may be structural damage due to the basement water intrusions.

Petitioner is requesting a value based on a 33.087% value reduction which he calculated to be the percentage of the basement area, 807 square feet compared to the total square footage of the subject, 2,439 square feet.

Petitioner is asking for an abatement/refund amounting to not less the \$11,550.00 in taxes, based on his estimated costs to restore the property to its condition at the time it was purchased in 2001. Petitioner realizes that his request results in a total refund of taxes paid in 2006 and 2007.

Petitioner is requesting a 2006 actual value of \$197,454.00 for the subject property.

Petitioner is requesting a 2007 actual value of \$213,721.00 for the subject property.

Respondent presented a value of \$300,000.00 for the subject property for tax year 2006, based on the market approach.

Respondent's witness, Loretta I. Barela, a Certified Residential Appraiser with the Jefferson County Assessor's office, inspected the subject property in 2010 and observed previous water damage to the subject property's basement; there was no water in the basement on the date of her inspection. Ms. Barela also observed a rolled up carpet and furniture in the basement.

Respondent's witness presented three comparable sales ranging in sales price from \$266,000.00 to \$339,900.00 and in size from 1,454 to 1,662 square feet. After adjustments were made, the sales ranged from \$261,900.00 to \$358,800.00.

Comparable Sale 1 is located across the street to the west of the subject property and backs to the ditch. Comparable Sale 2 is located across the street to the east of the subject and does not back to the ditch. Comparable Sale 3 is located north of the subject and does not back to the ditch. Ms. Barela did not know if any of the comparable sales had water issues similar to the subject property. Comparable Sale 1 does not have a basement. All of the sales are located in the Applewood Grove subdivision.

The Jefferson County Assessor requires an engineer's report and a cost to cure before they make a value adjustment. Petitioner did not submit an engineer's report or a cost to cure the water intrusion problem from the appropriate assessment period. Ms. Barela made no adjustment to the

comparable sales or her value conclusion for the basement water intrusion problem at the subject property.

Due to the flooding issue, Ms. Barela removed all value of the partially finished basement. Ms. Barela testified that The Ditch Company has offered to assist with a shared cost program to attempt to remediate the water intrusion, which is caused by underground seepage and not overflow of the ditch. The Ditch Company expended funds to the previous owner of the subject property to help install a sump pump and also added bentonite powder to the ditch walls in order to reduce normal seepage.

Respondent assigned an actual value of \$285,090.00 to the subject property for tax year 2006.

Respondent presented a value of \$294,100.00 for the subject property for tax year 2007, based on the market approach.

Respondent's witness presented three comparable sales ranging in sales price from \$265,000.00 to \$345,000.00 and in size from 1,662 to 1,687 square feet. After adjustments were made, the sales ranged from \$265,400.00 to \$338,000.00. All of the sales are located in the Applewood Grove subdivision. None of the sales back to the ditch. She does not know if any of the comparable sales have water seepage issues.

Respondent assigned an actual value of \$294,100.00 for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2006 and 2007.

Respondent did not adjust the comparable sales to account for the ongoing water seepage issue at the subject property, other than removing the finished basement value. Lacking specific remediation costs from the appropriate tax years, the Board concludes that the value of the subject property should come from the midpoint of the value range for each tax year to account for the need to remediate the water damage.

The Board concludes that the 2006 actual value of the subject property should be reduced to \$279,300.00, and the 2007 actual value of the subject property should be reduced to \$270,200.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2006 actual value for the subject property of \$279,300.00.

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2007 actual value for the subject property of \$270,200.00.

The Jefferson 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 Section 24-4-106(11), C.R.S. (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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

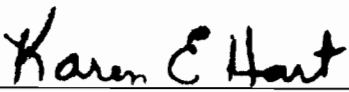
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 20th day of May 2010.

BOARD OF ASSESSMENT APPEALS

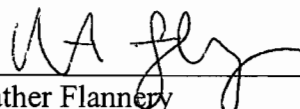


Diane M. DeVries



Karen E. Hart

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



Heather Flannery

