

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SUZANNE M BACH,</p> <p>v.</p> <p>Respondent:</p> <p>EL PASO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51600</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 21, 2009, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner appeared pro se. Respondent was represented by Andrew C. Gorgey, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Vacant Lot Addressed as 5160 Lanagan Street, Colorado Springs
(El Paso County Schedule No. 73222-01-032)**

The subject is a 14,033 square foot vacant residential lot located in the Mountain Shadows subdivision.

Petitioner’s witness, Mr. Stephen G. Bach, contends Respondent’s comparable sales from the County Board of Equalization hearing and from Respondent’s Exhibit 1 are dated, offer wider superior street frontage compared to the subject, offer superior open space compared to the subject and/or have superior soils conditions that were not adequately reflected in Respondent’s sales adjustments.

Petitioner presented tax year 2009 Assessor’s assigned value information for five properties located on Lanagan Street, including the subject. The Assessor’s values for these properties averaged \$3.15 per square foot; however, the value placed on the subject was \$5.44 per square foot.

Petitioner contends that the subject's actual value should be set below the actual value placed on a larger lot located at 5370 Lanagan Street, which offers superior city and mountain views.

Petitioner is requesting a 2009 actual value of \$44,204.00 for the subject property at a value of \$3.15 per square foot based on an argument of equalization.

Based on the market approach, Respondent presented an indicated value of \$106,650.00 for the subject property. Respondent presented four comparable sales ranging in sales price from \$135,000.00 to \$225,000.00 and in size from 19,148 to 52,272 square feet. The sales occurred between July 2005 and May 2007, using an extended base period due to a lack of sales within the base period. Respondent's witness, Ms. Jacqueline D. Delano, testified that that an adjustment for date of sale was considered; however, data did not support such an adjustment. Adjustments were made to the comparable sales for size, view, location and shape. After adjustments were made, the sales ranged from \$106,650.00 to \$184,400.00.

Respondent assigned an actual value of \$76,300.00 to the subject property for tax year 2009. Ms. Delano testified that the value of the subject was based on the value placed on smaller lots located on the lower section of Lanagan Street.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was correct, at \$76,300.00.

Respondent relied on the market approach to value the subject lot. "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).

While Petitioner contends that the sales and adjustments used by Respondent were incorrect, Petitioner provided no alternative sales data or quantifiable support for alternative adjustments.

Petitioner used an equalization argument to support Petitioner's requested value of \$44,204.00. 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. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioner.

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 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 of the respondent county, 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).

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.


Section 39-8-108(2), C.R.S.

DATED and MAILED this 21st day of January 2010.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



Sondra W. Mercier

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



Heather Flannery

