

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EDWARD F. MOCK,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51754</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 13, 2010, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Nate Lucero, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4679 Spinning Wheel Way, Brighton, Colorado
(Adams County Schedule No. R0140371)**

The subject is a 2,540 square foot residence with basement and garage built in 2005 on an 8,759 square foot site in the Brighton East Farms subdivision.

Respondent assigned an actual value of \$232,128.00 for tax year 2009. Petitioner is requesting a value of \$179,900.00.

Mr. Mock testified that the house, built by K.B. Homes, was low-quality construction in an entry-level section of the subdivision. His requested value is based on his purchase price of \$179,900.00 in January of 2009. The Board gives no weight to this sale because it occurred outside the base period of January 1, 2007 through June 30, 2008. *See* Section 39-1-104(10.2)(d), C.R.S.

Mr. Mock considered Respondent's Sales 1 and 2 most comparable to the subject because they were built by K.B. Homes on similar-sized lots in the subject's immediate area. He argued that additional adjustments should have been made for their larger railed porches, colonial windows, garage coach lights, superior landscaping, and for Sale 2's garage presentation.

Mr. Mock discussed Respondent's Comparable Sales 3, 4, 5, and 6 built by Lennar Homes: time adjustments favored these more expensive homes and adjustments were not made for superior construction and design, larger lots, fourth bedrooms, large covered porches, or superior landscaping.

Petitioner presented an additional comparable sale by K.B. Homes that sold May 8, 2008 for \$160,000.00. Respondent did not consider it because of its foreclosure status. The Board agrees that distress sales should not be given weight when sufficient arm's-length transactions are available for comparison.

Respondent presented an indicated value of \$232,128.00 for the subject property based on the market approach. Six comparable sales were presented, ranging in sales price from \$205,000.00 to \$319,000.00 and in size from 2,242 to 2,694 square feet. After adjustments were made, the sales ranged from \$212,146.00 to \$286,832.00.

Respondent's witness selected comparable sales from within the Brighton East Farms subdivision, which features several production builders. Sales were selected for similarity in size. Exterior brick/stone was adjusted as a "flat rate" line item. The appraiser did not adjust for design, construction quality, or interior upgrades. Sales 2, 3, and 4 had less than 5% gross adjustments and carried the most weight.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board considers Respondent's Sales 1 and 2 to be most similar to the subject, as they share the same builder and construction quality. Sales 3, 4, 5, and 6 are on considerably larger sites with superior construction (more roof cuts, larger windows, large covered porches, three-car garages, exterior brick or stone), miscellaneous extras (skylights, porch columns, bay windows, garage windows, upgraded front doors), and likely superior interior materials. The Board finds that construction quality and materials are more than simply aesthetic and should be considered in the market approach.

Respondent's Sales 1 and 2 are given most weight. Value is estimated at the lower end of this range to reflect these homes' similar features.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$212,000.00.

The Adams 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 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 16th day of March 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

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

HA Flannery
Heather Flannery

