

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>NEIL F. AND SHEILA H. NAVIASKY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>TELLER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51755</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on September 22, 2010, Karen E. Hart and Debra A. Baumbach. Petitioners appeared pro se. Respondent was represented by Matthew A. Niznik, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Lot 19A B2, Indian Creek 1, 995 Beaver Creek Drive  
Lake George, Colorado  
Teller County Schedule No. R0039545**

The subject property is a 1.5 story residence built in 2001 consisting of 4,255 square feet of finished living area and a 2,584 square foot unfinished basement area. There are three bedrooms, three bathrooms, and a 450 square foot built-in garage. The site consists of 10.21 acres.

Petitioners are requesting an actual value of \$398,080.00 for the subject property for tax year 2009 and Respondent has assigned an actual value of \$475,000.00 for tax year 2009.

Based on the market approach, Petitioners presented an indicated value of \$398,080.00 for the subject property.

Petitioners' witness, Mr. Naviasky, testified the subject is located in the Indian Creek Subdivision located approximately two miles out of the town of Florissant. The majority of homes in the area are much smaller in square footage and there is a large percentage of mobile homes. The subject is the largest home in the subdivision.

Mr. Naviasky contends there are no suitable comparable sales to use to value the subject property. Mr. Naviasky presented two CMA Statistical Reports. The first report was a list of twelve area sales within an 18-month time period, ranging in sales price from \$100,000.00 to \$358,250.00 and in size from 576 to 3,039 square feet. The second report listed 103 area sales within a five year period, ranging in sales price from \$58,000.00 to \$417,000.00 and in size from 576 to 4,448 square feet.

Mr. Naviasky primarily relied on his concluded indicated value, which was derived by applying a percentage adjustment, to account for the declining market, to the assigned value for the subject property. There were no adjustments made to any of the sales for physical characteristics.

Petitioners further contend that Respondent did not take into consideration that the subject has a modest degree of improvements and upgrades and made no adjustments for the differences in the comparable sales. The subject is considered overbuilt for the area and because of the size, potential buyers may be less likely to purchase the subject property. As such, there should be an adjustment applied for those differences.

Petitioners are requesting a 2009 actual value of \$398,080.00 for the subject property

Respondent presented an indicated value of \$475,000.00 for the subject property based on the market approach.

Witness for Respondent, Ms. Janet L. Brooks, presented three comparable sales ranging in sales price from \$278,500.00 to \$358,250.00 and in size from 1,444 to 2,860 square feet. After adjustments for time and physical differences, the sales ranged from \$450,157.00 to \$512,186.00.

Ms. Brooks contended that the sales used were the best available within the market area. All three sales are located in the same market area and share similar location factors. There was a 24-month data collection period used in the valuation process. An adjustment was made to each of the sales for a downward market trend. All three comparable sales were chosen based on similarities including age, style, quality, condition, and location. Adjustments were made for all differences in physical characteristics, with the largest adjustment being made for differences in square footage. There were very few sales with similar square footage; the subject is the largest home in Indian Creek. Ms. Brooks testified that it was an oversight that the subject property was not adjusted for super adequacy and she would apply a 10% adjustment.

Respondent assigned an actual value of \$475,000.00 for tax year 2009.

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

The Board gives minimal weight to Petitioners' comparable sales as they made no adjustments for any differences as well as a lack of detailed information regarding the provided sales. Petitioners' analysis was provided to support a downward trend indicating that the subject

was overvalued. The Board agrees the subject property is overbuilt for the area and the available sales are much smaller in size, requiring aggressive adjustments for square footage differences.

Respondent utilized the best available sales within the market area to value the subject property, and adjustments were made for differences in physical characteristics including a downward adjustment for time trending. However, the Board is convinced that, because the subject is overbuilt for the area, market perception would result in a downward adjustment. The Board is not convinced Respondent gave adequate consideration for the marketability issues relating to having the largest home in the neighborhood.

Additionally, the Board understands that when sales require adjustments exceeding 50% of the sales price, it often leaves the sales unsuitable for comparison or indicates a skewed value range that would be unsupported in the market.

Therefore, the Board gives most weight to Respondent's Comparable Sales 1 and 2 because they required the least degree of overall adjustments. The Board applied a 10% downward adjustment for market recognition of the subject being overbuilt, for an indicated value of \$412,000.00.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$412,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$412,000.00.

The Teller 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 5 day of November 2010.

**BOARD OF ASSESSMENT APPEALS**

Karen E. Hart  
Karen E. Hart

Debra A. Baumbach  
Debra A. Baumbach

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

Amy Bruins  
Amy Bruins

