

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALLAN L & VICKI JO MOORE,</p> <p>v.</p> <p>Respondent:</p> <p>ELBERT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51874</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 4, 2010, Karen E. Hart and Debra A. Baumbach presiding. Vicki Jo Moore appeared pro se for Petitioners. Respondent was represented by Thomas J. Burke, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**13217 County Road 141, Simla, Colorado
(Elbert County Schedule No. R101366)**

The subject property is a ranch style residence consisting of 2,108 square feet of living area, and a 1,658 square foot basement with 1,575 finished square feet built in 1987. There is an enclosed patio area of 2,916 square feet with a built-in swimming pool and a 780 square foot garage area.

The residence is situated on a 40-acre parcel, classified as agricultural land and valued at \$3,105.00 for tax year 2009. The value and classification assigned to the land is not in dispute.

Based on the market approach, Petitioners presented an indicated value of \$229,707.00 for the subject property for tax year 2009.

Petitioners presented three comparable sales ranging in sales price from \$177,201.00 to \$245,000.00 and in size from 1,782 to 2,400 square feet. After adjustments were made for all differences, the sales ranged from \$224,101.00 to \$258,558.00.

Petitioners contend in previous years Respondent applied a 50% adjustment factor to account for the subject's over improvement for the area. The subject is located in a less densely populated area and the residence is considered to be unique mainly because it is newer in construction than other properties in the area. Additionally, there is an enclosed patio area consisting of 2,916 square feet with a built-in swimming pool. The market does not recognize value attributed to the swimming pool.

Petitioners further contend that Respondent did not apply the historical adjustment factor to the subject property for this assessment period and utilized sales located much further away from the subject. The subject's market area is affected by no employment or shopping in the area and there have been no changes made to the property to indicate that the adjustment factor is not warranted.

Petitioners are requesting a 2009 actual value of \$229,707.00 for the subject property.

Respondent's witness Mr. Joseph M. McGrath, Deputy Assessor, with Elbert County Assessor's office, presented an indicated value of \$361,565.00 based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$185,000.00 to \$300,000.00 and in size from 1,272 to 1,792 square feet. After adjustments the sales ranged from \$329,517.00 to \$448,169.00.

Mr. McGrath testified there were fifteen comparables sales that occurred during the base period in the general vicinity of the subject. The comparable sales that were used in his analysis were considered to be the most comparable in the market area. Adjustments were made for all differences in physical characteristics and the adjustment factor that had been applied in past years was removed after the initial protest period as it was no longer considered to be valid.

To support the lack of adjustment for the swimming pool area, Respondent presented four sales within the base period that occurred with a built-in swimming pool. The subject property is located in a less densely populated area of the county and the comparable sales are located in a more heavily populated area. Therefore, a location adjustment was warranted and reflected in the land value. The subject's pool is located in an enclosed patio area where as the comparable sales have outdoor locations. An adjustment was made for the enclosed patio area.

Respondent assigned a value of \$361,265.00 for tax year 2009 to the subject property.

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

The Board agrees that Respondent utilized the best sales available within the market area to value the subject property. However, the Board believes the adjustments are aggressive and

unsupported by the market reflecting a higher value range for the area. Some of the adjustments made for differences equate to upwards of almost 40% of the sales price, either indicating a less reliable sale, or in this case where there are limited sales, less reliable adjustments.

Additionally, the Board does not agree that adequate consideration was given for the over improvements affecting the subject property. The Board agrees that because of the location and market trends in this area there is no market support for any additional value attributed to the enclosed built-in pool. The market area is agricultural and market trends do not support a pool in this area. The four pool sales that took place are located in a more densely populated area and reflect different market trends. Respondent has recognized an adjustment for over improvement in past valuations and there was no evidence or testimony presented by either party to indicate that there has been any changes to the property that would affect continuing this adjustment factor.

Accordingly, the Board recalculates Respondent's adjustments on the four comparable sales located in the vicinity of the subject property for the differences. The Board adjusts all four of Respondent's sales for age difference at \$100.00 per year. It appears from the photos all of the sales have had some updating indicating a closer effective age, so the adjustments for quality and condition have been removed. The enclosed patio area with the swimming pool has been recalculated to \$5.00 per square foot. The Board is aware the enclosed patio adjustment appears to be minimal, however the Board is convinced there would be an additional cost attributed to fill in the pool for any utility of the enclosed patio area. The Board reduces the adjustment for unfinished basement to \$10.00 per square foot and reduces the finished area of the basement to \$5.00 per square foot. After all adjustments, the sales ranged from \$231,272.00 to \$355,374.00, with a mean of \$285,765.00, rounded to \$285,000.00

The Board concludes that the 2009 actual value of the subject property should be reduced to \$285,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$285,000.00.

The Elbert 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 15th day of April 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.

Heather Flannery
Heather Flannery

