

<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>ROBERT A. LEVIN &amp; DIANA E. LEVIN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51915</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 30, 2010, MaryKay Kelley and Sondra W. Mercier presiding. Robert A. Levin, Petitioner, appeared pro se. Respondent was represented by Franklin P. Celico, Esq. Petitioners are protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1101 9000 Divide Road, #302, Frisco, Colorado  
(Summit County Schedule No. 6513050)**

The subject is a residential condominium unit of 1,523 square feet, with construction beginning in 2006 and completing in 2007. It is a three bedroom, three bath unit located in the Timberline Cove Condominium community. The subject sold within the base period. Respondent reports a date of sale of July 16, 2007 with a purchase price of \$625,000.00 after deduction for personal property. The contract date was reported as July 23, 2005.

Petitioners are requesting a 2009 actual value of \$628,000.00 for the subject property. Petitioner, Robert Levin, contends that the price paid during the base period should set the value for the subject. Petitioners cite *Home Federal Savings Bank v. Larimer County Board of Equalization*, 857 P.2d 562 (Colo. App. 1993) as requiring use of actual sales. Petitioners further cite *Padre Resort, Inc. v. Jefferson County Board of Equalization*, 30 P.3d 813 (Colo. App. 2001), as indicating that the Assessor may not use conditions existing outside the statutory base period.

Respondent presented an indicated value of \$881,372.00 for the subject property based on the market approach.

Respondent's witness, Michael W. Peterson, presented five comparable sales ranging in sales price from \$761,000.00 to \$1,085,000.00 and in size from 1,407 to 1,859 square feet. After adjustments were made, the sales ranged from \$878,854.00 to \$980,167.00. Respondent considered 25 closed transactions of units located in the Timberline Cove Condominium complex that occurred during the base period. Respondent contends that there is a significant difference in selling price between those units that were placed under contract during construction or prior to January 1, 2007 and those units placed under contract after that date. No transactions closed prior to the date of completion on July 12, 2007.

Respondent assigned an actual value of \$845,915.00 to the subject property for tax year 2009.

The Board gave consideration to the cases of law cited by Petitioners and found neither to be on-point. The rate of absorption of vacant lots was at issue in *Home Federal Savings Bank v. Larimer County Board of Equalization*, 857 P.2d 562 (Colo. App. 1993). The issue discussed in *Padre Resort, Inc. v. Jefferson County Board of Equalization*, 30 P.3d 813 (Colo. App. 2001) involved the valuation of a hotel property based on future projected hotel rooms that were not completed within the base period.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009. The Board was convinced that those units that were placed under contract well before the date of completion, in 2005 and 2006, sold for significantly lower prices than those units that were contracted for and closed during the base period. The Board was convinced that the sales selected by Respondent best reflected the size, location and view amenities of the subject during the base period.

### **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).

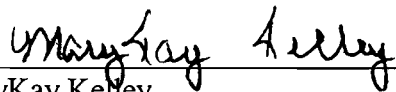
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

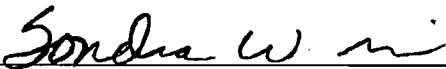
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

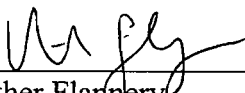
**DATED and MAILED** this 13<sup>th</sup> day of August 2010.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
MaryKay Keley

  
\_\_\_\_\_  
Sondra W. Mercier

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

  
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Heather Flannery

