

<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>ELLEN C. TEMBY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket Nos.: 51971 and 51972</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 5, 2010, Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Frank Celico, Esq. Petitioner is protesting the 2009 actual value of the subject properties.

Docket Nos. 51971 and 51972 were consolidated.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

**655 Straight Creek Drive Unit 103 Building H, Dillon, Colorado  
Summit County Schedule No. 801113**

**515 Straight Creek Drive Unit 203 Building C, Dillon, Colorado  
Summit County Schedule No. 801185**

Subject property Schedule No. 801113 consists of a 570 square foot condominium unit built in 1979. It is a one bedroom, one bathroom unit located on the lower walkout basement level of its building. Subject property Schedule No. 801185 consists of a 739 square foot condominium unit built in 1979. It is a two bedroom, two bathroom unit on the main level of its building. The subject properties are located in the Dillon Valley West Condominium complex which consists of 174 condominium units located in nine three-story buildings, all built from 1978 to 1980.

Based on the market approach, Petitioner presented an indicated value of \$123,414.00 for subject property Schedule No. 801113.

Petitioner presented three comparable sales for consideration which had been presented by the Summit County Assessor in previous local hearings. The three sales ranged in sales price from \$135,000.00 to \$159,000.00. After adjustments, the sales ranged from \$120,000.00 to \$130,000.00. Petitioner also presented six sales ranging in sales price from \$104,900.00 to \$154,900.00. After adjustment for time, the sales ranged from \$131,020.00 to \$174,262.00. There was little data regarding the physical characteristics of the nine sale properties.

Petitioner believes that the value assigned to the subject property does not reflect its interior condition. It has been used as a rental since Petitioner's purchase in 2004 and is in poor condition, including the need to replace a bedroom window, patio door, carpet and linoleum.

Petitioner testified that the subject property has little view other than of a tree in the back yard. Petitioner does not believe a comparison of her unit with second and third floor units is appropriate as second floor units have better views and are more marketable, and third floor units have exceptional views and are highly marketable.

Petitioner is requesting a 2009 actual value of \$123,414.00 for subject property Schedule No. 801113.

Respondent presented a value of \$160,660.00 for subject property Schedule No. 801113 based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$104,800.00 to \$145,000.00, all 570 square feet in size. After adjustments were made for time, the sales ranged from \$142,129.00 to \$160,660.00. None of the sales had been remodeled at the time of sale, comparable to the subject property.

Respondent's witness, Michael W. Peterson, a Certified General Appraiser with the Summit County Assessor's office testified that Comparable Sale 1 is a first floor unit located directly adjacent to the subject property. Sale 2 is a second floor unit but has the same view as the subject property. Sale 3 is the second floor unit located directly above the subject property and has the same view as the subject. Sale 4 is a first floor unit. Mr. Peterson considered Sale 1 to be the best indicator of value due to its adjacency to the subject and being the most recent sale.

Respondent assigned an actual value of \$134,361.00 to subject property Schedule No. 801113 for tax year 2009.

Based on the market approach, Petitioner presented an indicated value of \$167,138.00 for subject property Schedule No. 801185.

Petitioner presented one comparable sale that occurred in 2008 with a sales price of \$185,000.00 and an adjusted sale price of \$163,000.00.

Petitioner testified that the subject property has been a rental property since its purchase by Petitioner in 2005 and the interior condition was not adequately considered by Respondent.

Petitioner critiqued Respondent's sales, testifying that Sale 1 sold fully furnished and questioning whether the sales price was appropriately adjusted for personal property included in the sale. Sale 2 had some remodeling and Sale 4 was on the market 222 days. There were 17 sales of two bedroom, two bathroom units during the time period and Petitioner believes better sales were available than those used by Respondent. Petitioner agreed that Sale 3 was a good comparable.

Petitioner is requesting a 2009 actual value of \$167,138.00 for subject property Schedule No. 801185.

Respondent presented a value of \$193,041.00 for subject property Schedule No. 801185 based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$145,640.00 to \$200,940.00, all 739 square feet in size. After adjustments, the sales ranged from \$183,327.00 to \$199,283.00. None of the sold properties had been remodeled, similar to the subject property. All of the sales were located on the second or third floor of their buildings. Most weight was given to Sale 1 as it was the most recent sale and had the least amount of adjustments.

The subject property has a fair view as its view is of another building. Sales 1 and 3 were adjusted for superior views. Regarding Sale 1, if there was any personal property reported, the purchaser's reported value of the personal property would have been removed from the raw sales price and would be reflected in the adjusted sales price. Regarding Sales 2 and 4, tile, carpet and dishwasher replacement are considered normal maintenance, not a remodel. Multiple regression analysis was used to determine all adjustments. Mr. Peterson was not aware of Sale 4 being on the market for 222 days; if it were on the market for an unusual period of time he would have investigated it, but there was a typical amount of time between when Sale 4 went under contract and when the sale closed.

Respondent assigned an actual value of \$186,574.00 to subject property Schedule No. 801185 for tax year 2009.

For both of the subject properties, Petitioner believes Respondent's time adjustment is overly aggressive. Petitioner presented twelve sales that occurred in 2007 and five sales that occurred in 2008 to support her position that Respondent's time trending calculation was incorrect. Petitioner contends that there was a clear upward trend in the market in 2007 but the market leveled out in 2008. Based on sales volume, price per square foot and days on the market, Petitioner believes there should be no time adjustment for 2008 sales.

Mr. Peterson testified that he studied four methods of measuring time trending. He ultimately used multiple regression analysis for his time trending method as he considered it to be most reflective of market activities. The time adjustment was split into +2.88% per month for sales occurring from January to October 2007 and +1.1% per month for sales occurring from November 2007 to June 2008.

Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax year 2009.

Petitioner argued that the 2008 time trend adjustment used by Respondent was overly aggressive. Respondent's witness presented ample sales data using four different methods, proving that his time trend calculations were reasonable. The Board accepted Respondent's time trending adjustment for the subject properties.

Petitioner also argued that the condition of the subject properties was not adequately considered by Respondent. Respondent's witness testified that when he inspected the interior of the subject properties, he saw normal wear and tear for properties of the subjects' ages. The Board determined that Mr. Peterson chose sales of properties that had not been remodeled and were in similar condition as the subject properties, adequately addressing the subject properties' condition.

Regarding Petitioner's sales, there was insufficient data presented regarding the properties for the Board to be able to utilize these sales. Also, Petitioner's adjustments were not supported and did not appear to be market based, unlike Respondent's adjustments. Respondent presented well documented and well supported appraisal reports. Petitioner failed to prove that Respondent's valuations were incorrect.

### **ORDER:**

The petitions are 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 day of September 2010.

**BOARD OF ASSESSMENT APPEALS**

*Diane M DeVries*

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Diane M. DeVries

*Karen E Hart*

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Karen E. Hart

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

*Amy Bruins*  
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Amy Bruins

