

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HELEN LOUISE MEAD,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52038</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 11, 2010, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**8019 Woody Creek Road, Woody Creek, Colorado
(Pitkin County Schedule No. R012768)**

The subject property is a single family residence located on a 1.99 acre lot in Woody Creek Valley, an offshoot of the Roaring Fork valley, located approximately four miles northeast of Aspen. The residence is two story design and of log construction. There are 3,812 square feet of heated living area with 2,542 square feet in the first floor and 1,270 square feet in the garden level caretaker's apartment. The main portion of the home has four bedrooms and two and one half bathrooms. The garden level apartment has two bedrooms, one bathroom, kitchen and living area. There is also an 800 square foot detached rental cabin that originally was a mobile home and later had a log frame built around it.

Petitioner presented an indicated value of \$600,000.00 for the subject property. Petitioner did not present any comparable sales for consideration. The value was based on an offer made by Petitioner to purchase a neighbor's home for \$575,000.00 and on previous assessments.

Ms. Mead contends Respondent has overvalued the subject property by not considering the collapse of the housing market and its impact on overall values in the area. The subject is located outside the Aspen area in the Woody Creek market area. Ms. Mead testified that there were no comparable sales that occurred within the base period or the extended period to support an increase in value for the subject property. Ms. Mead believes that Respondent's sales, which are located closer in proximity to Aspen, reflect different market trends. Petitioner was unable to reconcile the increase in value for the subject property with the lack of comparable sales and increase of foreclosures in the area.

Mr. David Ritter, witness for Petitioner testified he formerly worked for the Pitkin County Assessor's Office and is familiar with the subject property. He contends the comparable sales used by Respondent are all superior to the subject property in location, quality and condition. The subject is located in an area in Woody Creek near the unincorporated former small mining town of Lenado. The area consists of modest summer vacation homes and a few full-time residences. The area is considered its own submarket and does not reflect the same upscale higher end homes as located in the Snowmass and Aspen areas. Many properties in Respondent's comparable sale areas are being redeveloped into higher upscale homes. Mr. Ritter testified that it is critical to rely on smaller sub areas similar to the subject's location when selecting suitable sales for comparison.

Under cross-examination, Mr. Ritter testified that overall the subject's area has not seen the degree of foreclosures that other areas have experienced.

Ms. Mead contended financing is next to impossible to obtain, further impacting values and purchase ability. She believed Respondent needed to consider current market conditions in the valuation process. Ms. Mead tendered an offer of \$600,000.00 for her neighbor's home, which was contingent on obtaining financing as well as a \$575,000.00 cash offer but the sale did not occur. Ms. Mead believed current listings should be included in the valuation analysis as they represent market conditions, motivations of buyers and sellers and are supportive to what the market will bear.

Petitioner is requesting a 2009 actual value of \$600,000.00 for the subject property for tax year 2009, but she testified that she would be willing to accept a value as high as \$800,000.00.

Respondent presented an indicated value of \$2,100,000.00 based on the market approach.

Respondent's witness Mr. Lawrence C. Fite, Certified General Appraiser with the Pitkin County Assessor's Office presented four comparable sales ranging in sales price from \$1,899,500.00 to \$3,050,000.00 and in size from 1,252 to 3,449 square feet. After adjustments were made for time and differences in location, living area square footage, finished basement area, quality of construction, garage area and detached cabin, and heating area, the sales ranged from \$1,901,264.00 to \$2,667,098.00.

Mr. Fite testified there were limited available sales in the subject's market area and a search of the extended market area was performed to find suitable comparable sales. The sales were considered to be the best available in the market area and most similar to the subject. All of the sales were located in remote areas sharing similar remote location influences.

Mr. Fite presented two additional comparable sales ranging in sales price from \$600,000.00 to \$875,000.00 to represent primarily the subject property's land value. After adjustments, the sales ranged from \$1,621,120.00 to \$1,783,180.00. Comparable Sales 5 & 6 were included to represent properties with limited access and utility, both were zoned "R-rural and remote," which limits the allowable building size. Adjustments to these sales were primarily for the inferior site value and for differences between a rustic cabin versus the subject's 3,812 total finished square foot home. Mr. Fite indicated that these two sales would establish the low end of the value range for the subject property. Mr. Fite considered these sales to be essentially land sales as the small rustic cabins likely contributed little to the total purchase price.

Mr. Fite testified that Colorado Revised Statutes require that closed sales be used in valuing property for Ad Valorem purposes and listings cannot be considered in the Ad Valorem analysis. Any influences from market trends and conditions would be reflected in the sales prices of the comparable sales.

Respondent assigned an actual value of \$1,624,700.00 to the subject property for tax year 2009.

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 Respondent's sales were the most similar to the subject and were adjusted for all differences affecting the value. When there is a lack of sales in the immediate market area, then the market area can be extended to find suitable sales. Any adverse influences due to downward changes in the economy, market trends and conditions are going to be reflected in the sales prices of the comparable sales.

The Board agrees with Petitioner that downward changes in the economy and market conditions are going to affect purchase ability and market values. However, there was no convincing evidence presented to indicate that the downward trend in the subject's market area or the downturn of the economy attributed to a lower value than what the comparable sales reflect. The assigned value of the subject property is well below the unadjusted sales prices of Respondent's four comparable improved sales.

The two additional adjusted sales presented by Respondent primarily for land value also support the assigned value.

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 8th day of October 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 L. Brains
Amy Brains

