

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 52761

Petitioner:

THOMAS F. AND KELLY J. DURAN,

v.

Respondent:

PUEBLO COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on November 1, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Mr. Thomas F. Duran appeared pro se on behalf of Petitioners. Respondent was represented by Daniel C. Kogovsek, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**542 South Hook Drive, Pueblo, Colorado
Pueblo County Schedule No. 06-103-05-010**

The subject property is a 2,020 square foot ranch-style house with a partially finished basement and two-car garage. Improvements were built in 2002 on a 19,276 square foot lot in Pueblo West.

Petitioners are requesting an actual value of \$226,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$247,000.00 for the subject property.

Mr. Duran presented three comparable sales ranging in sale price from \$198,500.00 to \$245,000.00 and in size from 1,436 to 1,696 square feet. Although the appraiser was not present at the hearing, Mr. Duran relied on his report and based his requested value on the conclusion at \$226,000.00.

Mr. Duran presented actual values from 2002 forward for the subject property, calculating a 4.33% increase in the actual value from tax year 2008 to 2009 and a 62.68% increase in the seven-year period. He compared these figures with actual values of 16 homes

within a four-block radius, calculating percentage changes for a variety of years and arguing that his property has been unfairly valued by a prejudiced and biased assessor's office.

Mr. Duran, noting that his property had neither backyard landscaping nor fencing, commented on Respondent's comparable sales: Sale 1 had hardwood flooring, full landscaping, fencing, and a walkout basement; Sale 5 sat on a larger lot that had a higher value; and Sale 6 was located 5.2 miles away in a different neighborhood.

Respondent presented a market approach supporting the assigned value of \$247,000.00. Mr. Kenneth D. Frederick, Registered Appraiser, presented six comparable sales ranging in sale price from \$210,000.00 to \$295,000.00 and in size from 1,870 to 2,011 square feet. After adjustments were made, the sales ranged from \$238,946.00 to \$292,084.00.

Mr. Frederick testified that actual values were determined by application of mass appraisal, and he commented on two of Petitioner's neighborhood properties: 117 South Trevino sold on June 22, 2007 for \$224,000.00, supporting the 2009 actual value of \$222,647.00; and 343 Golfwood Place sold on January 26, 2007 for \$245,000.00, supporting the 2009 actual value of \$226,020.00.

Respondent provided sufficient probative evidence and testimony to convince the Board that the subject property was correctly valued for tax year 2009.

Petitioners' three comparable properties were considerably smaller than all of Respondent's sales and the subject itself. In addition, Petitioner's appraiser was unavailable for questioning, resulting in little weight being given to his market approach.

The Board finds that the market reacts to garage bays rather than size and that Respondent's Sales 1 and 2 should have been adjusted for three-car garage bays (\$5,000.00 applied). Also, Sale 1 should have been adjusted for a walkout basement (\$30,000.00 estimated by Respondent's witness). The Board places no reliance on Sales 3 and 4 because of their ages, Sale 6 because of its distance from the subject, and Sale 5 because of its higher land value. Giving most weight to Sales 1 and 2, recalculation results in adjusted values of \$246,345.00 (Sale 1) and \$263,007.00 (Sale 2). Respondent's assigned value of \$247,000.00 remains supported.

Petitioners presented an equalization argument by comparing actual values of neighboring properties. The Board can consider an equalization argument only if evidence or testimony is presented that shows the assigned values of the equalization comparables were derived by application of the market approach and that each was correctly valued. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioner.

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 5 day of November 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Lyle D. Hansen
Lyle D. Hansen

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

Amy Bruins
Amy Bruins

