

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ELLIOT J. ACTOR,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53098</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 13, 2010, Debra A. Baumbach and Louesa Maricle presiding. Petitioner appeared pro se. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**25087 Foothills Drive North, Golden, Colorado
(Jefferson County Schedule No. 150135)**

The subject property consists of a semi-custom split-level design residence that was built in 1985. The home is wood frame construction containing 2,408 square feet of living area with 3 bedrooms, 2½ baths, 1 fireplace, and a hot water heating system. The property has a 564 square foot attached 2-car garage and outdoor decking. The subject site is 0.370 acre in size. The subject property is located in the Genesee residential subdivision.

Respondent assigned a value of \$576,410.00 for tax year 2009. Petitioner is requesting a value of \$472,000.00.

Petitioner contends that Respondent has incorrectly included the square footage of the garden level walkout basement in the living area and in doing so, has compared the subject property to sales

of much larger homes. The garden level space is below grade under the home's entry, transitioning to a walkout level at the rear of the residence. Petitioner testified that the correct above grade living area should be 1,550 square feet and the 858 square foot walkout level should be classified as basement space.

Petitioner testified that Respondent has not been consistent in the classification of garden level space for the comparable sales used in Respondent's analysis.

Petitioner presented a statistical analysis to show an average increase in sale price of 1.5% for homes in the Genesee subdivision for the January 1, 2007 through June 30, 2008 base period over the prior base period. Petitioner provided comparative statistical analysis to derive an indication of value per square foot for the subject property based on the sales of 3-bedroom homes in Genesee. Using all home sales of \$400,000.00 to \$700,000.00 that occurred during the base period in the broader Mountain Evergreen North and Mountain Jefferson County areas, Petitioner presented statistical analysis iterations to derive adjustments for design style, number of bedrooms, location of master bedrooms, number of bathrooms, garage spaces, and lot size. Petitioner then separately applied the indicated statistical average adjustments for these features to all 3-bedroom home sales in Genesee during the base period, to all homes he deemed similar in livable size to the subject property, and to homes with similar finished square footage. Using the analyses, Petitioner developed a range of values of \$430,151.00 to \$501,535.00 with an average of \$466,161.00. Petitioner testified that he did not make comparative adjustments to any of the sales presented for all differences present relative to the subject property.

Ms. Vanessa Denbow, a Certified Residential Appraiser with the Jefferson County Assessor's Office testified as witness for Respondent. Ms. Denbow presented three comparable sales ranging in sale price from \$549,500.00 to \$639,900.00 and in size from 2,140 to 2,774 square feet, excluding basement and garden level square footage. After adjustments were made for market conditions and physical characteristics, the sale prices ranged from \$566,400.00 to \$596,700.00. Ms. Denbow concluded to a value for the subject property of \$578,000.00.

Petitioner's methodology of estimating adjustments for specific physical characteristics (finished square feet, number of bedrooms et cetera) can be valid if the analysis uses sales that are physically alike except for that individual characteristic only. However, the sales used in Petitioner's analyses include residences with differences for multiple physical characteristics. Therefore, the Board concludes that the value indications presented are affected by more than the individual characteristics cited and are not reliable for the applications presented. Petitioner testified that Respondent has included the garden level space in his home as living area, but has not classified similar space in Respondent's comparables in the same way. Opinions can differ in how garden or walkout space is classified. However, so long as the classification is consistent, the analysis is valid. Petitioner did not present compelling evidence to show that Respondent's classification of basement and garden level space for the sale comparables was inconsistent. Therefore, the Board concludes there is not sufficient probative evidence to support a different value.

The Board concludes that Petitioner failed to present sufficient probative evidence and testimony to prove that the value assigned to the subject property by Respondent for tax year 2009 was incorrect.

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 17th day of May 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Louesa Maricle
Louesa Maricle

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

Heather Flannery
Heather Flannery

