

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT G. AND JANET D. BOARDMAN,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53610</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 9, 2011, Debra A. Baumbach and Gregg Near presiding. Petitioner, Robert G. Boardman, appeared pro se on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**9138 Spruce Mountain Road, Larkspur, Colorado
Douglas County Schedule No. R0085761**

The subject is a mixed use residence and service garage building. The original structure, constructed in 1923, is currently the garage and service building. The upper level serves as the owner's residence and was remodeled in 1955. A metal frame addition of 1,452 square feet was constructed in 1998 and attached to the lower level. The building contains 2,031 square feet on the upper level including the loft area. The lower level opens to the ground level to the rear of the improvements. The lower level contains 1,750 square feet of the original building and the 1,452 square foot later addition. Total building area is 5,233 square feet.

Petitioners are requesting an actual value of \$250,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$393,157.00 for the subject property for tax year 2009 but is recommending a reduction to \$383,000.00.

Petitioners presented no comparable sales but contend Respondent has overvalued the property. Petitioners questioned Respondent's use of comparable sales from Sedalia, Titan Road and

west of Highlands Ranch. Petitioners stated the building is prone to flooding and is located on top of a spring causing water intrusion. Petitioners also questioned the inclusion of their loft area in the residential portion as living area stating this was formerly a parts storage area.

Respondent presented the following indicators of value:

Market:	\$383,000.00
Cost:	\$242,646.00
Income:	N/A

Respondent's appraiser, Robert D. Sayer, a Certified General Appraiser, presented four comparable sales ranging in sale price from \$360,000.00 to \$995,000.00 and in size from 2,957 to 14,000 square feet. After adjustments were made, the sales ranged from \$39.80 to \$54.74 per square foot of building area. Mr. Sayer reconciled to \$52.00 per square foot for a total improvements value of \$272,160.00. A previously determined land value of \$111,000.00 was then added back for a total of \$383,000.00.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$242,646.00.

Respondent presented five comparable land sales ranging in sale price from \$5.20 to \$7.65 per square foot and ranging in size from 7,405 to 39,204 square feet. Respondent reconciled to a subject land value of \$4.90 per square foot.

The individual portions of the building were depreciated at different rates. The lower level garage was depreciated 79% from cost new. Respondent indicated the residential portions of the building had been updated in the 1970s and therefore the upper level and was depreciated at 55%. The metal frame addition to the lower level was depreciated by 21%. The total of the depreciated improvement values was \$131,646.00. The land value, added to the contributory value of the improvements, produced a value by the cost approach of \$242,646.00.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board was convinced by Petitioners' testimony that Respondent made inadequate adjustments for the impact of the floodplain and 30-foot easement on the subject property.

Respondent's Sale 5 occurred outside of the valuation dates, and although it was under contract during the valuation dates, no contract was submitted to support this. Accordingly, the Board gave minimal weight to Respondent's Sale 5. Respondent's appraiser indicated a total adjustment of negative 30% and concluded to a value opinion of \$4.90 per square foot. The Board's application of Respondent's 30% adjustment to Respondent's remaining four sales produced a value range of \$3.82 to \$5.36 per square foot.

The Board also did not give much weight to Respondent's market approach. While the Board agrees the subject is difficult to compare, it gave little weight to Respondent's Sale 1 because it

occurred more than five years before the assessment date. Respondent's Sale 4 is located adjacent to a highly developed metropolitan neighborhood and is considered only marginally comparable.

The Board further disagreed with Respondent's adjustment process. Respondent's Sales 2, 3, and 4 were adjusted after removing the land value. The Board cannot determine the appropriateness of the adjustments from this technique.

The Respondent's sales were adjusted downward to a range of \$4.00 to \$6.50 per square foot of land area. While it is reasonable that some variation in unit value results from size differences, it is unclear whether consideration was given to the influence of flood areas and an easement affecting the utility of the subject land parcel. From information in the Respondent's report, nearly 37% of the Petitioner's property has restricted utility due to location in the floodplain. Petitioner also testified that a portion of the yard area is also burdened by a 30-foot wide easement.

Respondent's appraiser indicated Respondent's comparable sales were equal in their locations, but it is not clear whether either the floodplain or easement were considered in the adjustment process. Respondent's Sale 4, from outside Highlands Ranch, is most similar in size to the subject. However, due to its location, direct comparison of the Respondent's land values indicates Sale 4 is nearly 25% more valuable. Application of this adjustment to the gross sale prices of Respondent's Sales 2 and 3 indicates a value range of \$270,000 to \$330,000.

Respondent's appraiser produced adjusted estimates of improvement value for Sales 2, 3, and 4 from \$54.00 to \$54.74 per square foot of building area. Application of a similar 25% adjustment to the above produces a range from \$40.50 to \$41.06 per square foot. At \$41.00 per square foot, the subject's improvements would contribute \$214,553.00. Addition of the improvement value to the Respondent's \$111,000.00 land value produces an estimate of roughly \$325,553.00.

The adjusted range of the comparable sales is therefore from \$270,000.00 to \$330,000.00. The Board considers a value opinion of \$300,000.00 to be reasonable and supportable, as it is in the middle of the range.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$300,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$300,000.00.

The Douglas County Assessor is directed to change his/her records accordingly.

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 15 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Near

Gregg Near

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

Amy Bruins
Amy Bruins

