

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROGERS AND LORRAINE HEMPHILL,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53858</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 15, 2010, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioners were represented by Matthew J. Casebolt, Esq. 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:

**1034 County Club Estates, Castle Rock, Colorado
Douglas County Schedule No. R0408710**

The subject property consists of a single-family residence containing a total of 3,147 square feet of gross living area on the main level with a 3,123 square foot walk-out basement of which 3,033 square feet is finished. The residence has one bedroom on the main level and three bedrooms on the lower level, a total of two bathrooms, three fireplaces and a three-car garage. The residence is situated on a 0.726-acre site and was built in 2000.

Petitioners are requesting an actual value of \$1,350,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$1,850,000.00 for the subject property for tax year 2009.

Petitioner, Mr. Rogers Hemphill, testified that his property is a ranch design, situated on a nice lot, has a nice deck and has a three-car garage. He presented 16 sales from the Multiple Listing Service, ranging in sale price from 790,000.00 to \$2,437,500.00 and in size from 4,616 to 7,856 square feet. Mr. Hemphill computed an average sale price based upon the 16 sales at \$257.66 per square foot resulting in an indicated value for the subject at \$1,550,855.54.

Petitioners' appraiser, Mr. Kerry A. Dunn, presented four comparable sales ranging in sale price from \$1,169,500.00 to \$1,695,000.00 and in size from 2,645 to 3,210 square feet. After adjustments were made, the sales ranged from \$1,159,800.00 to \$1,538,600.00.

Mr. Dunn testified that the subject has a view amenity of the golf course and mountains that was a better view than was typical in Castle Pines Village.

Mr. Dunn testified that Respondent's appraiser did not accurately account for differences in site size and year of construction between the subject and the comparable sales.

Mr. Dunn testified that he utilized comparable lot sales to show that sites less than 40,000 square feet have a lower average sale price than sites with more than 40,000 square feet.

Mr. Dunn testified that homes in Castle Pines Village reflect a substantial variance between older home sales and newer home sales. He testified that homes that were built prior to 2005 reflect an average sale price per square foot of \$295.00. For homes built from 2005 onward, the average sale price per square foot was \$376.00. Mr. Dunn concluded that the newer homes, which sold from 2005 onward, reflected a higher average value of \$80.00 per square foot. He testified that Respondent's appraiser utilized comparable sales that were built in 2007 to compare to the subject that was built in 2000.

Mr. Dunn adjusted downward 8% per year to reflect the difference in date of sale/time between the subject and the comparable sales. He based this adjustment upon information obtained from the Multiple Listing Service on over 100 comparable sales from Castle Pines Village and Castle Pines North neighborhoods.

Petitioners are requesting a 2009 actual value of \$1,350,000.00 for the subject property.

Respondent presented a value of \$1,878,000.00 for the subject property based on the market approach.

Respondent appraiser, Mr. Jerry D. McLeland, presented three comparable sales ranging in sale price from \$1,960,000.00 to \$2,437,500.00 and in size from 3,377 to 3,706 square feet. After adjustments were made, the sales ranged from \$1,866,492.00 to \$2,274,134.00.

Mr. McLeland testified that the subject property has a really nice view of the mountains and of the golf course's #11 tee box. He testified that his downward adjustment of \$1,000.00 per year for differences between the subject and the comparable sales in year of construction was made based upon sales information obtained from Douglas County Assessor sales data. Mr. McLeland testified that Petitioners' vacant land sales are not located close to the subject site. He testified that Petitioners' Comparable Sale 3 was the only sale that had golf course frontage and that Comparable Sales 1 and 2 were interior lots and not on the golf course. He testified that Petitioners' comparable sales were inferior in construction quality. During cross examination, Mr. McLeland testified that he used three comparable sales that were seven years newer than the subject because they were either located on the same street as the subject or were located nearby. He testified that he adjusted

downward by \$7,000.00 for differences in year of construction between the subject and the comparable sales.

Mr. McLeland testified that he adjusted downward 1.21% per year to reflect the difference in date of sale/time between the subject and comparable sales. He testified this adjustment was based upon studies accomplished by the Douglas County Assessor's office on sales of residences in the subject neighborhood, which was further supported by a discussion on Time Adjustment Methodology.

Respondent assigned an actual value of \$1,850,000.00 to the subject property for tax year 2009.

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

The Board was concerned at the significant difference in the adjustment for "Date of Sale/Time" presented by both Petitioners' appraiser and Respondent's appraiser. Petitioners' appraiser adjusted each comparable sale downward by 8% per year, and Respondent's appraiser adjusted each comparable sale downward by 1.21% per year. The Board concluded an adjustment for date of sale/time of 5% per year. The Board concluded an adjustment of \$3,000 per year for differences in year of construction. The Board gave primary weight to Petitioners' Comparable Sale 4 because it required the least number of adjustments and was the most recent sale of all sales presented by both appraisers.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$1,580,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,580,000.00

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 29 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

