

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GARY L. AND KELLY FISHER v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53861</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 23, 2010, James R. Meurer and Lyle D. Hansen presiding. Petitioners appeared pro se by telephone. Respondent was represented by Steven Dinsbacher, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**114 Waxwing Place, Pagosa Springs, Colorado
Archuleta County Schedule No. 558336207023**

The subject is a ranch style frame construction single-family residence containing a total of 1,544 square feet on the main level. There is a crawl space below the main level. The residence was built in 1995, has three bedrooms and two baths and has an attached two-car garage. There is a small porch and a deck. The improvements are situated on a 10,464 square foot lot.

Petitioners presented an indicated value of \$184,797.00 for the subject property.

Petitioners presented no comparable sales to support their value conclusion.

Mr. Fisher testified that he has 25 years experience as a general contractor and electrical contractor. The Archuleta County Assessor has rated the building quality as average. Mr. Fisher testified that the improvements were never built to industry standards. The cheapest building

materials were used and improper workmanship accomplished, resulting in below average improvement quality. Petitioners presented a detailed cost breakdown on the building components requiring repair or replacement of the areas with inferior condition. The cost breakdown included the building components roofing, windows, drywall, interior painting, closet doors, flooring, appliances, boiler, exterior paint, sidewalk and driveway. Mr. Fisher presented a total cost of repairs of \$37,830.00 not including the services of a general contractor, which if included would increase the total cost to \$42,369.60.

Mr. Fisher further testified that Waxwing Place, the public street providing access to the subject, was never completed with proper road improvements and surface materials. He testified that the road condition resulted in a reduction in market value for his property.

Petitioners are requesting a 2009 actual value of \$184,797.00 for the subject property.

Respondent presented an indicated value of \$202,500.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$186,600.00 to \$224,900.00 and in size from 1,232 to 1,444 square feet. After adjustments were made, the sales ranged from \$201,600.00 to \$205,300.00.

Respondent's witness Robert G. Randolph, a Licensed Appraiser with the Archuleta County Assessor's Office testified that the road condition providing public access to the subject is typical for the area. He further testified that the subject improvements appeared to be at unacceptable building standards and that the construction was accomplished by a less experienced contractor, but that the improvements do not show a great deal of deferred maintenance. He testified that some of Petitioners' building condition items would be considered typical deterioration expected of a residence constructed in 1995 reflecting a physical age of 13 years.

Mr. Randolph rated the subject condition at below average and adjusted Comparable Sale 1 upward for fair condition, and Comparable Sales 2 and 3 downward for average condition. Mr. Randolph considered the subject quality as average and rated Comparable Sales 1 and 2 as average but rated Comparable Sale 3 as superior and adjusted the sale price downward.

Respondent assigned an actual value of \$227,840.00 to the subject property for tax year 2009.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2009. The Board agreed with Respondent's appraiser in that many of the building condition items identified by Petitioners would be considered as deferred maintenance reflecting the age of the structure. The Board agreed with Respondent's adjustment for deferred maintenance.

The Board agreed with Petitioners concerning the improper workmanship accomplished on some of the building components. The Board concluded that curable functional obsolescence exists on these improvements because of the improper workmanship. The Board adjusted Respondent's

comparable sales using a \$5,000.00 negative adjustment for curable functional obsolescence and chose the indicated value from the lower end of the adjusted comparable sales range.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$196,600.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$196,600.00.

The Archuleta County Assessor is directed to change 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).

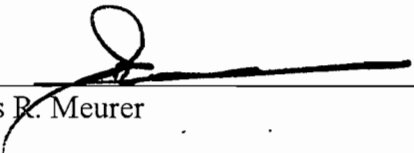
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

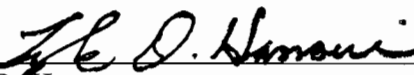
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

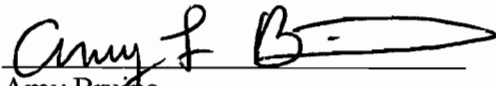
DATED and MAILED this 24 day of September 2010.

BOARD OF ASSESSMENT APPEALS


James R. Meurer


Lyle D. Hansen

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


Amy Bruhn

