

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD F. SMITH,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 54045</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 21, 2011, Diane M. DeVries and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by David Wunderlich, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**13751 West Amherst Way, Lakewood, Colorado
Jefferson County Schedule No. 414536**

The subject property is a 2,455 square foot two-story house with basement and garage. It was built in 1995 on a 0.145 acre site in the Green Mountain subdivision.

Petitioner is requesting an actual value of \$353,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$366,650.00.

Petitioner argued that comparison of assessed values is a valid approach and that assessed values for similar properties should be equal to the subject's. Relying on an equalization argument, Mr. Smith presented five comparable properties, selected for similarity in size, design, and garage space. Assessed values ranged from \$335,850.00 to \$355,350.00 and averaged \$345,150.00. None were verified as sales.

Mr. Smith argued that Respondent's market approach lacked credibility: Respondent's witness selected two sales with finished basements, unlike the subject; three of Respondent's four sales had three-car garages, in comparison to the subject's oversized two-car garage, yet adjustments were not made for the difference; and Respondent included a higher-priced fourth sale in order to raise the average sales price.

Petitioner's requested value is based on Respondent's Sale 2, which he considered to be the only valid transaction because it closed in June of 2008 after the market decline that began in Spring of 2007. Metropolitan Denver Real Estate Statistics reported that the average price of closed properties decreased by 13% and the median price dropped 10% from May of 2007 to May of 2008.

Respondent presented a value of \$384,750.00 for the subject property based on the market approach. The witness, Lorin Havenner, Licensed Appraiser, presented four comparable sales ranging in sale price from \$352,000.00 to \$404,000.00 and in size from 2,095 to 2,177 square feet. After adjustments were made, the sales ranged from \$371,300.00 to \$403,900.00. The indicated value was derived by averaging the four adjusted values.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2009.

Petitioner used an equalization argument to support his requested value. The Board can consider an equalization argument if evidence or testimony is presented that shows the Board that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Since the assigned values of Petitioner's comparable sales were derived by a computerized mass appraisal rather than a site-specific market approach, the Board gives limited weight to the equalization argument presented by Petitioner.

Respondent based indicated value on the market approach, which is required by state statute. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

The Board gives Respondent's market approach most weight. However, it disagrees with the lack of adjustments for three-car garages, as they carry more value in the marketplace than the additional storage space of an oversized two-car garage, and \$5,000.00 adjustments are applied to Sales 1, 2 and 3. Also, the Board is not convinced that Sale 4 is a reliable comparison, as its sales price is \$31,500.00 to \$52,000.00 higher than Sales 1, 2 and 3 and its adjusted sales price \$16,600.00 to \$32,600.00 higher, no explanation offered. Re-calculated adjustments for Sales 1, 2 and 3 conclude to adjusted values, respectively, of \$382,300.00, \$367,300.00, and \$371,505.00. This range of values, however, supports the assigned value of \$366,650.00.

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 4 day of February 2011.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

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

Amy Bruifs
Amy Bruifs

