

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>BRYANT &amp; STACIE WINSLOW,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 54311</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 19, 2011, MaryKay Kelley and Debra A. Baumbach presiding. Mr. Scott D. Albertson, Esq., appeared on behalf of Petitioners. Respondent was represented by Mr. Robert D. Clark, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**947 Buffalo Ridge Rd., Castle Rock, Colorado  
(Lot 47 Castle Pines North, Filing 26)  
Douglas County Schedule No. R0429355**

The subject property consists of a 0.387 acre vacant lot with slightly-sloping terrain. The site is located in Castle Pines North Filing 26, known as Buffalo Ridge Subdivision. The subdivision consists of 92 custom home sites. The subject site is located on the end of cul-de-sac with the rear of the site backing up to a greenbelt area.

Petitioners are requesting an actual value of \$50,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$135,000.00 for the subject property for tax year 2009.

Petitioners' witness, Mr. Bryant Winslow, testified that he is a general contractor and part-owner of Winslow Construction Company, LLC. He is also part owner of several other construction-related companies including Glynnalden Builders, LLC, which has developed several sites in the development.

Mr. Winslow purchased the subject site in 2007 from Ameriland, LLC, a subsidiary of GMAC Capital, for \$50,000.00. Mr. Winslow made an initial offer to purchase the lot for \$50,000.00 and was subsequently rejected with an explanation that the offer was extremely low. After some time had passed, Mr. Winslow's offer was accepted. There was another lot located in the subdivision that had also sold during the same time for \$50,000.00. Both of the lots had been marketed for much higher asking prices, indicating a declining market.

Mr. Winslow expressed concerns regarding the costs attributed to the development of the site. The subject lot is affected by a 10-foot utility easement within the 25-foot setback interfering with the building envelope and driveway access. The subject lot is affected by difficult topography, and the location within the subdivision is very inferior.

Mr. Winslow contends the lower purchase price was offset by additional development costs of the lot. Mr. Winslow believes the purchase of the subject lot for \$50,000.00 in the tax base period should be considered market value. Mr. Winslow discussed the sale of Lot 84, which sold prior to the study period for \$70,000.00. This sale was a good indication of value as it shares some of the location and access issues. However, it does not back to the greenbelt.

Petitioners' witness, Mr. John Burns, founding broker of Kentwood Company, testified he is the marketing director for custom home sites at Buffalo Ridge Subdivision. Mr. Burns testified the sites were not available on Metrolist, as there was not commission paid to the brokers, and were primarily marketed to approximately 14 to 18 home builders. Individuals interested in a custom home site could purchase a site as well. A sales commission was paid on the site and home as one unit after construction. It is common practice to market communities through an onsite office and not through Metrolist.

The sale of the subject site was considered to be an arm's-length transaction, and no other offers were made on the site. As the subdivision neared sellout, remaining lots were discounted. Mr. Burns contended that, although the price of the subject site was discounted, development of the site required additional costs.

Petitioners' witness, Mr. Brent Henry, Certified Residential Appraiser, SRA, presented an indicated value of \$60,000 using the market approach. Mr. Henry presented three comparable sales ranging in sale price from \$50,000.00 to \$113,400.00. After adjustments were made, the sales ranged from \$50,000.00 to \$104,400.00.

Mr. Henry testified that he selected sales in the tax base period that were considered most recent. Sale 1 is that of the subject property, and Sales 2 & 3 were purchased below market. After adjustments were made for differences, most weight was placed on Sale 2. Mr. Henry contends the lot is inferior and the ability to obtain financing affects the market value of the sites.

Petitioners are requesting a 2010 actual value of \$50,000.00 for the subject property.

Respondent's witness, Ms. Virginia K. Wood, Certified Residential Appraiser, presented an indicated value of \$135,000.00 using the market approach. Respondent presented three comparable sales ranging in sale price from \$135,000.00 to \$149,800.00 and in size from 0.32 acres to 0.341

acres. Ms. Wood made qualitative adjustments to the sales utilizing the mean of mass-appraised base period sales.

Ms. Wood looked for sales that were the most similar in size, location and views. All three of the sales are located several sites down from the subject site and all back up to a greenbelt area. Ms. Wood acknowledged that additional costs would be attributed to the development of the site because of the driveway access. There was a negative 15% qualitative adjustment for non-typical driveway access. Since the subject site backs up to a large greenbelt area, some of the development costs would be considered offset by the privacy that other sites do not share.

Ms. Wood contended the purchase of the subject site was considered a non-qualified sale because it was sold below market value; Petitioners were business affiliates of the previous owner and Mr. Winslow developed several sites in the subdivision. Respondent discussed the comparable sales utilized by Petitioners, contending that the sales do not back up to a greenbelt and that Sale 1 sold six months prior to the base period. The entire subdivision is subject to tree preservation, possibly affecting various building envelopes.

Respondent assigned an actual value of \$135,000.00 to the subject property for tax year 2009.

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

The Board is convinced the subject site was purchased for below-market value during the base period due to several factors. It concludes the purchase was a qualified sale, and no evidence was presented that the purchase price was influenced because Petitioners developed other sites in the subdivision.

The Board also concludes that, although sales in the subdivision were only marketed through an onsite sales office and not through Metrolist, Petitioners' sales should be considered qualified sales. The Board agrees that it is common to have an onsite marketing office in subdivisions .

The Board did not find Mr. Henry's appraisal as credible: although the use of the subject as a comparable sale is permissible, the Board is not convinced that below-market sales are true indicators of value; the Board is not convinced that all factors affecting the site were addressed by Petitioners' sales. The Board concludes that Respondent's sales are more reflective of sales unencumbered by adverse factors, which allows the Board to extract components to derive adjustments for differences in the subject property.

However, the Board disagrees with Respondent's use of a qualitative analysis; a quantitative analysis adheres to accepted appraisal practice for residential subdivisions and might result in a different value.

The Board considered Respondent's Sale 1 (\$135,000.00) and Petitioners' sale of Lot 84, (\$70,000.00). The Board gave most weight to Respondent's Sale 1, making a negative 30% adjustment for access to arrive at \$94,500.00. Petitioners' sale of Lot 84 was adjusted negatively by

30% for superior access to arrive at \$91,000.00. The Board concluded to an indicated value of \$91,000.00.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$91,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$91,000.00.

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).

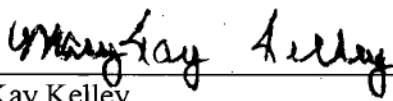
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

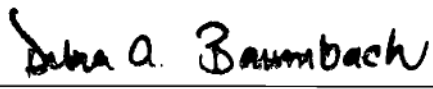
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

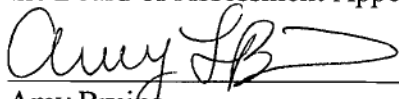
**DATED and MAILED** this 16 day of May 2011.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
MaryKay Kelley

  
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Debra A. Baumbach

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

  
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Amy Bruins

