

<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>JORDAN BRAUNSTEIN AND ELAINE NGUYEN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 56069</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 14, 2011, Debra A. Baumbach and MaryKay Kelley presiding. Jordan Braunstein appeared pro se on behalf of Petitioners. Respondent was represented by Robert Clark, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2009.

Subject property is described as follows:

**2935 Ballard Court, Castle Rock, Colorado  
Douglas County Schedule No. 250530001021**

The subject property is a 5,182 square foot two-story residence with a partially finished walkout basement and four-car garage. It is located on a 10.03 acre site in the Keene Ranch Subdivision.

Petitioners are requesting an actual value of \$620,000.00. Respondent assigned a value of \$1,100,000.00.

Petitioners purchased the subject property in 2006 for \$737,500.00. Mr. Braunstein described it as bank owned, without a certificate of occupancy, and with numerous problems: structural damage; water damage and mold; poorly-constructed porches, balconies and decks; a leaking interior sprinkler system requiring repair and affecting drywall, ceilings, and electrical wiring; plumbing damage; poorly-constructed support beams; damaged interior flooring tiles; improper exterior grading; and no finished driveway.

Mr. Braunstein presented a letter from Reginal Creasy (Handy Man Construction, LLC), General Contractor. Mr. Creasy estimated a cost to cure of \$200,000.00 for the following; foundation settling, water damage and mold due to poor construction, and inadequate insulation.

Mr. Braunstein presented three comparable sales secured from Intelligent Property Report, a web-based data analysis and automated property valuation service. The sales ranged in sale price from \$515,000.00 to \$763,000.00. Value was computer-estimated at \$643,700.00.

Mr. Braunstein presented eleven comparable sales provided by the Keller Williams (Fritts Team). The sale prices ranged from 620,000.00 to \$890,000.00. After adjustments were made, the sale prices ranged from \$260,311.00 to \$934,346.00. Value was estimated at \$668,478.00.

Petitioners based their requested value of \$620,000.00 on the comparable sales and cost to cure analysis.

Mr. Braunstein contended that the absence of a certificate of occupancy rendered the subject property less marketable and affected value. He argued that Respondent should have selected comparable sales without certificates of occupancy.

Respondent presented a value of \$1,200,000.00 for the subject property based on the market approach. Respondent's witness, Thomas L. Brown, Certified Residential Appraiser, presented four comparable sales ranging in sale price from \$1,113,000.00 to \$1,420,000.00. After adjustments were made, the sales ranged from \$1,143,065.00 to \$1,510,010.00. With greatest weight placed on Sale 3, value was concluded at \$1,200,000.00.

Mr. Brown estimated a cost to cure for the subject property of \$50,000.00 based on receipts provided by Petitioners. His estimate did not address foundation problems (none were visible and none were mentioned during his inspection) or driveway paving (the subject driveway met the county's requirement of a Class 6 road base and was similar to neighboring driveways).

Mr. Brown presented photographs and data about Petitioners' sales, testifying that none were comparable for various reasons: inferior-quality construction; smaller and older (dating to 1952) homes; dated interiors and some in various stages of remodeling; estate sales and short sales.

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

The Board is persuaded that Respondent's comparable sales are most similar to the subject in age, size, quality of construction, and acreage. In addition, Sales 1 and 2 were distress sales, as was the subject, and Sale 2's construction was incomplete, as was the subject's. Although Petitioners presented fourteen comparable sales, none were equal to the subject's custom construction or similar in other ways.

In response to Petitioners' arguments regarding the absence of a certificate of occupancy and impact on value, the Board finds that this issue was addressed in Petitioners' cost to cure. A

certificate of occupancy is withheld when building codes are not met and the structure is not livable. While Respondent's cost to cure estimate did not address structural issues, Petitioners' estimate did. However, a further reduction in Respondent's estimated market value to address any structural deficiencies does not justify a lower value than that assigned.

Petitioners did not present sufficient probative evidence to dispute Respondent's assigned value.

**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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 28th day of November, 2011.

**BOARD OF ASSESSMENT APPEALS**



*Debra A. Baumbach*

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Debra A. Baumbach

*MaryKay Kelley*

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MaryKay Kelley

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

A handwritten signature in black ink, consisting of a series of connected loops and curves, positioned above a horizontal line.

Milla Crichton