

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LINDA JELINEK,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 56157</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 17, 2011, Louesa Maricle and Debra A. Baumbach presiding. Ms. Linda Jelinek appeared pro se via phone conference. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**81 Danielson Dr, Aspen, Colorado
Pitkin County Schedule No. R003791**

The subject property is situated on 2.26 acres with a 6,858 square foot custom residence originally built in 1980. The residence was built in two stages with an addition in 1994 for an effective year built of 1990. The original portion contains 4,710 of heated area with the balance built in 1994. The addition has not been completed. The residence contains five bedrooms and four and one half bathrooms. The subject property is located in the Starwood Subdivision gated community of Aspen. The subject has views of Aspen Mountain, Aspen Highlands, and Buttermilk Ski Resort.

Petitioner is requesting an actual value of \$4,205,000.00 for the subject property for tax year 2010 and Respondent has assigned an actual value of \$5,250,000.00 for tax year 2010 but is recommending a reduction in value to \$5,205,000.00.

Ms. Jelinek presented an indicated value of \$4,205,000.00 based on 2010 declining values. Ms. Jelinek contends overall land and improvement values have decreased based on the declining economy. She agreed to a stipulation for tax year 2009, but believes the market changed in 2010

and Respondent did not take that into consideration. Ms. Jelinek did not present any comparable sales but did testify to knowledge of several vacant land sales in the area. Ms. Jelinek contends the land and the improvement value remained the same as the value assigned by the County in previous years.

Ms. Jelinek testified the subject is in poor condition and there is a substantial degree of deferred maintenance required. According to Ms. Jelinek, there were inferior materials used in the construction of the home. Ms. Jelinek argued that the driveway is shared by several homeowners adversely impacting her lot. According to Ms. Jelinek, there have been several bear break-ins causing further damage to the property.

Ms. Jelinek contends Respondent has not given appropriate consideration to the adverse conditions affecting the property. According to Ms. Jelinek, Respondent should have considered other sales that took place closer to the 2010 valuation period. Petitioner is asking for the land value to be reduced by \$1,000,000.00 and an additional \$45,000.00 reduction for the damage caused by the bear break-ins.

Petitioner is requesting a 2010 actual value of \$4,205,000.00 for the subject property.

Respondent presented an indicated value of \$5,575,000.00 for the subject property based on the market approach.

Witness for Respondent, Mr. Lawrence C. Fite with the Pitkin County Assessor's Office, presented three comparable sales ranging in sales price from \$4,050,000.00 to \$5,790,000.00 and in size from 3,196 to 6,638 square feet. After adjustments for physical differences were made, the sales ranged from \$5,285,545.00 to \$5,705,075.00.

Mr. Fite testified the comparable sales he selected are located in the same subdivision as the subject and share similar characteristics. The subject is situated and takes advantage of excellent views to the south. Adjustments were made to the sales for any differences affecting the value, including a 20% functional adjustment to account for the unfinished area and deferred maintenance issues with the property. An adjustment was also made to the comparable sales to account for the inferior quality of the subject.

Respondent has made several inspections of the subject property in determining the overall condition. The same comparable sales were used in 2009 in 2010 valuations. There was no evidence the property had changed in value other than the damage caused by the bear break-ins.

Respondent assigned an actual value of \$5,250,000.00 to the subject for tax year 2010. After hearing about the 2009 bear break-ins which resulted in \$45,000.00 worth of damage, Respondent recommended a reduction of \$45,000.00 for a recommended value of \$5,205,000.00.

Petitioner presented sufficient probative evidence and testimony to show that the value of the subject property should be reduced by \$45,000.00.

Petitioner argued that Respondent increased the land value over the last valuation period. The Board is unable to consider the valuation of the land and improvements separately. Land and improvements must be valued as an aggregate. “[A] party may seek review of only the total valuation for assessment and not the component parts of that total.” *Cherne v. Bd. of Equalization*, 885 P.2d 258, 259 (Colo.App.1994).

Petitioner did not provide the Board with any comparable sales to refute Respondent’s sales or adjustments. Respondent addressed all issues regarding the property and adjusted for any factors affecting the overall value of the subject property. The comparable sales used by Respondent are appropriate to use as they are within the statutory base period of January 1, 2007 to June 30, 2008. Further, if there are insufficient sales within the statutory base period, then the Assessor’s office may go back in six-month increments to find suitable sales. The Board cannot consider any testimony outside of the statutory time frame.

After careful consideration of all the testimony and evidence presented, the Board concluded that the 2010 actual value of the subject property should be reduced to \$5,205,000.00.

ORDER:

Respondent is ordered to reduce the 2010 actual value of the subject property to \$5,205,000.00.

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.

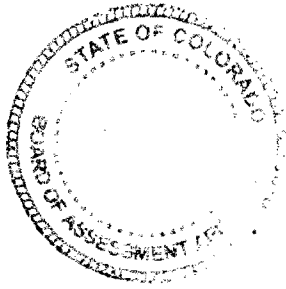
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such

decision.


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

DATED and MAILED this 1st day of November, 2011.


BOARD OF ASSESSMENT APPEALS




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



Milla Crichton



Louesa Maricle



Debra A. Baumbach