

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ANTHONY R. BIANCHINI,</p> <p>v.</p> <p>Respondent:</p> <p>BROOMFIELD COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 57933</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 12, 2011, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by Tami Yellico, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**12592 Eliot Street, Broomfield, Colorado
Broomfield County Schedule No. R0106529**

The subject property consists of a wood frame single-family residence constructed in 1998 in a split-level floor plan. The residence has a total of 1,844 square feet of gross living area above grade and a 702 square foot basement. The residence has a total of three bedrooms and two and one-half bathrooms. The residence has one fireplace, central air-conditioning, and an attached two-car garage. The residence is situated on a 5,094 square foot lot.

Petitioner is requesting an actual value of \$235,490.00 for the subject property for tax year 2011. Respondent assigned a value of \$247,000.00 for the subject property for tax year 2011.

Petitioner presented no comparable sales, but presented two assessor-assigned values of neighboring residences ranging from \$215,980.00 to \$247,000.00; both residences at 1,428 square feet.

Petitioner testified that this valuation case is a matter of discrimination where numerous identical residences in his neighborhood that were constructed by the same builder and are the same model as his residence are valued differently by the Broomfield County Assessor. He testified that this action is a violation of his rights under the 14th Amendment of the United States Constitution. Mr. Bianchini also cited the case of *Allegheny Pittsburgh Coal Co v. Webster County*, 488 U.S. 336 (1989) as further reference for his discrimination claim. He testified that the Broomfield County Assessor has consistently failed in its duty to implement Colorado state law regarding property taxation in a consistent and uniform manner. According to Mr. Bianchini, as a result of the Assessor's performance in this issue, a climate of discrimination has been created. Mr. Bianchini testified that his two neighborhood properties should be assigned an equal value and in more alignment with his assigned property value. He is seeking redress on inequality of the law governing the taxation issue.

Petitioner is requesting a 2011 actual value of \$235,490.00 for the subject property.

Respondent presented a value of \$247,000.00 for the subject property based on the market approach.

Respondent's appraiser, Mr. Jay Yamashita, presented five comparable sales ranging in adjusted sale price from \$235,000.00 to \$258,500.00 and in size from 1,683 to 2,050 square feet. Mr. Yamashita testified that these adjusted sale prices represent the original sale price and were adjusted for financing, personal property and other elements. After final adjustments were made, the sales ranged from \$238,698.00 to \$257,906.00.

Respondent assigned an actual value of \$247,000.00 to the subject property for tax year 2011.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2011.

The Board placed greater reliability upon Respondent's value estimate. The five comparable sales were adjusted for differences in year of construction, gross building area, basement area and finish, bathrooms and fireplaces. The Board agreed with Respondent's Appraiser who gave equal weight to all five comparable sales because of their comparability in neighborhood location and construction by the same builder. The Board agreed with the Appraiser's adjustment analysis to the five comparable sales. The Board agreed with the Appraiser's final valuation placed at the assigned value.

The Board gave consideration to the case of *Arapahoe County Board of Equalization v. Podoll*, 935 P. 2d 14 (Colo. 1997). The *Podoll* case cites and discusses Article X, section 3, of the Colorado Constitution. *Podoll*, 935 P.2d at 15.

The Board noted that Colorado statutory and case law require the use of the market approach to value. "Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Podoll*, 935 P.2d at 17.

The Board acknowledges Petitioner's frustration with the concept of uniformity in equalization and the valuation process. The Board agreed with Respondent's argument that Colorado statutory and case law was followed in the establishment of market value for the subject.

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 10th day of January, 2012.

BOARD OF ASSESSMENT APPEALS

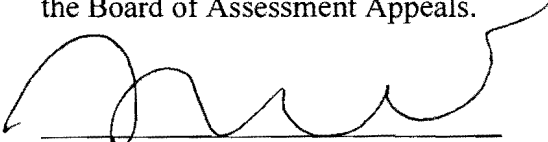


Debra A. Baumbach

Lyle D. Hansen

Lyle D. Hansen

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



Milla Crichton

