

<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>GREEN PROPERTY MANAGEMENT LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 59250</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 18, 2012, Diane M. DeVries and MaryKay Kelley presiding. Petitioner was represented by John Watson. Respondent was represented by Robert Clark, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**5165 Aspen Leaf Drive, Littleton, Colorado  
Douglas County Schedule No. R0439801**

The subject is a vacant 4.24-acre site located in the Cherokee Ridge Estates, a gated subdivision with 44 residential sites. It lies approximately ten miles northwest of Castle Rock along Santa Fe Drive. Terrain is sloping with mountain views. A well is in place.

Respondent assigned a value of \$250,000.00 for the subject property for tax year 2011. Petitioner is requesting an actual value of \$90,000.00.

Mr. Watson, the owner of the subject property, discussed the subject's negative features: an underground cistern for use by the fire department; Santa Fe Drive traffic; a nearby junkyard (view deterrent); and fewer trees than other subdivision lots. He considered these to negatively affect value and argued that Respondent did not make related adjustments in the appraisal.

Mr. Watson described the subject subdivision as distressed. Three transactions occurred, all lender foreclosures offered at auction by the Public Trustee. No bids were received and Certificates

of Purchase were issued to respective financial institutions: Comparable One (the subject property) to Countrywide Home Loans on May 13, 2009 for \$325,600.00; Comparable Two (5872 Aspen Leaf Drive) to Mutual of Omaha Bank on May 19, 2010 for \$90,000.00; and Comparable Three (5731 Aspen Leaf Drive) to American National Bank on March 24, 2010 for \$149,655.00.

Mr. Watson testified that auctions were open to the public. Because the above-noted financial institutions placed bids, their subsequent Certificates of Purchase should be considered qualifying transactions. Mr. Watson requested an actual value of \$90,000.00, Comparable Two's Certificate of Purchase amount.

Mr. Watson described the process following issuance of the Certificates of Purchase. All three properties were listed for sale in the MLS and contracted for purchase by individuals: Comparable One closed August 11, 2010 for \$60,000.00; Comparable Two closed May 26, 2011 for \$99,500.00; and Comparable Three closed October 15, 2010 for \$135,000.00. Mr. Watson recognizes that these post-base period closings preclude consideration as comparable sales, but because Sale One contracted within the base period (June 10, 2010), it should be recognized as a valid comparison.

Respondent presented a value of \$250,000.00 for the subject property based on a qualitative market approach. Respondent's witness, Virginia K. Wood, Certified Residential Appraiser, testified that, because no sales occurred in the subject subdivision during the base period, a search for similar subdivisions and vacant lot sales was required elsewhere in the county. Four comparable sales, two of them bank owned, ranged in sale price from \$187,000.00 to \$275,000.00. Ms. Wood, considering Sale One inferior to the subject (below-market foreclosure sale) and Sales Three and Four superior (better views), based her concluded value of \$250,000.00 on the remaining Sale Two.

Ms. Wood did not consider Petitioner's Certificate of Purchase transactions to be qualified sales. Based on Assessor Reference Library's definition of non-qualifying sales, Petitioner's "purchasers" were financial institutions. *ARL VOL 3 (1-89 Rev. 4-12) pg 3.25*. She also argued that Petitioner's three transactions did not meet the statutory definition of market value, were not exposed to the open market, were not without duress, and were not arm's length transactions.

Ms. Wood responded to Mr. Watson's comments about the subject property. She noted that the underground cistern was located approximately 15 feet from the road, was not visible, and did not impact the building envelope or mountain view. She saw no difference in ground cover or trees. She disagreed that Santa Fe Drive carried negative impact either visually or audibly, it being 500-600 feet from the subject site. She noted that the "junkyard" was in fact an RV and semi tractor storage yard several hundred feet from the subject site and was neither unsightly nor a negative visual factor.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2011.

The Board agrees that Certificate of Purchase transactions are not qualified sales per ARL definitions. However, the Board is convinced that the subject subdivision was distressed: no arm's length sales occurred during the base period; and three vacant sites were offered by the Public

Trustee for bid, unsuccessfully. Two of Respondent's four sales were foreclosures, indicating duress throughout the larger area. While the Board cannot consider two of Petitioner's post-base period transactions, it notes that the subject site contracted for \$60,000.00 during the base period, additional proof that the subject subdivision is distressed.

While unwilling to place reliance on Petitioner's Comparable One without additional support, the Board is confident that the lower end of Respondent's range better reflects the distressed nature of the subject subdivision. Additionally, it was a foreclosure sale, which represents the market within the subject subdivision.

The Board concluded that the 2011 actual value of the subject property should be reduced to \$187,000.00.

**ORDER:**

Respondent is ordered to reduce the 2011 actual value of the subject property to \$187,000.00.

The Douglas County Assessor is directed to change their 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 24th day of May, 2012.

**BOARD OF ASSESSMENT APPEALS**

*Diane M DeVries*

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Diane M. DeVries

*Mary Kay 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.

*Milla Crichton*

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Milla Crichton

