

<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>DOUGLAS H. WEGENER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 59275</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 15, 2012, Diane M. DeVries and Louesa Maricle presiding. Petitioner appeared pro se. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**11730 W. Auburn Avenue, Lakewood, Colorado  
Jefferson County Schedule No. 430224**

The subject property consists of a one-story single family residence situated on a 14,645 square foot lot in the Bear Creek Filing 6 Subdivision. The brick exterior residence was constructed in 2002 and contains 2,836 square feet of above ground living area, 2,801 square feet of unfinished basement space, and a three-car attached garage. The three bedroom residence has one full bathroom, one 3/4 bathroom, one half bathroom, and a fireplace. The residence does not have central air conditioning. The improvements are described by the Jefferson County Assessor as above average quality construction.

Petitioner is requesting an actual value of \$500,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$705,090.00 for the subject property for tax year 2011, which was lowered by the BOE to \$642,900.00.

Petitioner contends that Respondent has ignored sales within the subject property's subdivision and used higher priced sales located farther away. Petitioner contends that although Respondent claims one-story residences should be used to value the subject property, Respondent

has previously used sales of two-story homes to value the property and could use two-story sales located closer to his property for this valuation. Petitioner contends that Respondent has not accurately reflected the decline in home values during the assessment base period in the valuation of his residence. Respondent contends that the use of sales of one-story ranch design residences produces a more accurate indication of value for the one-story subject property.

Petitioner presented three comparable sales that occurred during July 2009 through February 2010, ranging in price from \$435,000.00 to \$597,000.00 and in size from 2,673 to 3,181 square feet. Petitioner testified that two of the sales are located within one block of his residence and the third sale is within 1.3 miles of the property. Petitioner testified that although all three are two-story residences, Respondent had also used these sales at previous stages of the assessment process. Petitioner testified that these three properties are more similar in age and quality of construction than the sales used by Respondent for this hearing and because they are located closer to his property, are better comparables than those used by Respondent. Petitioner testified that the only adjustment that would be needed to these three sales is for the square footage differences. There is no need to adjust for the number of bedrooms, bathrooms, central air conditioning, lot size, et cetera because those items are all reflected in the dollar per square foot sale prices and adjustments for those items would have only a minor impact. Petitioner averaged the unadjusted sale price per square foot of his three sales and concluded to a value per square foot for his property of \$176.30. Multiplying that figure by the 2,836 square foot size of the subject property, Petitioner concluded to a value of \$500,000.00. Petitioner presented historical Multiple Listing Service (MLS) data showing a decline in real estate values in 2009 as support for his claim that the valuation of his property should also have declined.

Respondent presented a value of \$900,000.00 for the subject property based on the market approach to value prepared by Patty Jo White, a Certified Residential Appraiser employed by the Jefferson County Assessor's Office. Ms. White testified she was not given interior access to the subject property by Petitioner. The witness presented three comparable sales within the same economic area as the subject property that occurred from July 2008 through March 2009. The witness testified that although the sales are located in other subdivisions, they are all within 1 mile of the subject property. The witness testified that one-story ranch style homes like the subject sell for more than two-story homes. The sales ranged in price from \$800,000.00 to \$1,110,900.00 and in size from 2,234 to 3,118 square feet. Construction of one of the comparable sale properties was completed in 2000 and two were completed in 2009. The witness made adjustments to the three sales for differences including, but not limited to, the date of sale to reflect changing market conditions, land area, open space amenity, view, gated community access, gross living area, basement square footage and finish, central air conditioning, and garage space. The witness testified that after adjustments were made, the sales indicated values of \$820,100.00 to \$1,030,500.00. The witness concluded to a market value for the subject property of \$900,000.00.

The Board concludes that Petitioner failed to present sufficient probative evidence and testimony to prove that the value assigned to the subject property for tax year 2011 was incorrect or to support his value conclusion for the property. The Board finds that Petitioner's methodology of averaging the unadjusted sale prices of his three comparable sales is not a valid methodology to derive a value for the property and the Board cites the following:

“Direct sales comparisons, with sales adjustments determined from market analysis, will be made.” *Assessor's Reference Library*, Volume 3, page 1.15.

The Board concludes that adjustments to the comparable sales are required for differences relative to the subject property such as, but not limited to, lot size, finished basement space, numbers of bedrooms and bathrooms, and two-story versus one-story design because the market places value on them. With regard to the MLS data presented by Petitioner showing declining real estate values, the Board finds that there is insufficient information given to determine what types of real estate are included in the figures or what geographic area is covered. The information provided refers only to a "history of Denver's real estate prices". The Board concludes that the evidence presented is insufficient to demonstrate a quantified decline in the prices of single family homes in the subject property's subdivision or economic area, as defined by Jefferson County.

The Board cites the *Assessor's Reference Library*, Volume 3, page 3.1, relative to Respondent's use of two sales that occurred prior to the 18-month base period for tax year 2011:

"All county assessors are required to gather sales derived from recorded deeds from the county clerk and recorder within the eighteen-month period ending on June 30th of the year prior to a year of change in the level of value pursuant to Section 39-1-104(10.2), C.R.S. If a sufficient sample of qualified and confirmed sales cannot be collected from within the eighteen month period, data must be collected from as many preceding six month periods within the five-year data gathering period, as are necessary, to obtain sufficient qualified sales to acquire adequate comparable valuation data. In any case, all sales must be time adjusted to the end of the data-gathering period."

The Board finds that although Respondent's witness testified that it was necessary to use older sales in order to find comparable sales of one-story homes similar in design to the subject property, Petitioner provided sales of two-story properties in the subject's subdivision constructed by the same builder that occurred within the 18-month base period. In response to questions by the Board, Respondent's witness testified that it was possible to make an adjustment to a sale of a two-story design residence relative to a one-story residence, but the witness was unable to quantify what that adjustment might be. The Board finds that while it is preferable to use sales as close in design to the subject as possible, sales within the base period of two-story properties located within the same subdivision as the subject property should not be omitted in favor of sales of one-story properties prior to the base period. The Board concludes that although Petitioner's more recent sales were two-story design and might have required adjustment for the design difference, the claim by Respondent's witness that it was necessary to use sales prior to the 18-month base period is not supported. The Board finds that two of Respondent's comparables were sales of newly constructed residences in a new subdivision filing, and at least one of the sales is located in a gated access subdivision. The Board concludes that Petitioner was persuasive in his claim that the sales used by Respondent were not better comparables for the subject than the two sales presented by Petitioner that are located within one block of the subject property. The Board concludes that the \$900,000.00 value presented by Respondent's witness was not persuasive.

## **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 30th day of May 2012.



**BOARD OF ASSESSMENT APPEALS**

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Diane M. DeVries

A handwritten signature in black ink, appearing to read "Louesa Maricle".

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Louesa Maricle

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, appearing to read "Milla Crichton".  
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Milla Crichton