

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BELL CROSS INVESTMENTS LLC</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 60181</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 26, 2012, Diane M. DeVries and MaryKay Kelley presiding. Michael T. Westall appeared pro se on behalf of Petitioner. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**11307 Bell Cross Circle, Parker, Colorado
Douglas County Schedule No. R0436660**

The subject property is a 6,243 square foot residence with an unfinished walkout basement and a four-car garage. It was built in 2005 on a 2.879 acre site in Bell Cross Ranch.

Respondent assigned a value of \$1,235,713 for tax year 2011. Petitioner is requesting a value of \$971,250.

Petitioner purchased the subject property for \$975,000 in 2009 as a foreclosure. It had neither window coverings nor landscaping. A dog breeding business had been housed in the basement, attracting mice that were later found in the ventilation system and elsewhere. Miscellaneous other deferred maintenance was noted; decking and post damage, wood trim scratches, dents in appliances, and cracks in granite.

Mr. Westall argued that distress sales were typical of the marketplace. Out of ten Bell Cross Ranch's forty homes sold during the base period, six were two story elevations like the subject, four of these were distress sales.

Mr. Westall's comparable search was comprised of homes within Bell Cross Ranch, no other subdivisions, in his opinion, were comparable. He presented six sales; all were two stories located in Bell Cross Ranch, including the subject transaction. They ranged in sale price from \$788,000 to \$1,780,000 and in size from 4,026 to 6,243 square feet. No adjustments were made to the sales. Four of the six were foreclosures. Mr. Westall considered the sale of the subject property to be the best indicator of value and based his requested value on its transaction.

Respondent presented a value of \$1,636,000 for the subject property based on the market approach. Respondent's witness, Jerry McLeland, Certified Residential Appraiser, presented five comparable sales that included the subject property. Sale prices ranged from \$975,000 to \$1,780,000 and adjusted sale prices ranged from \$975,000 to \$1,693,966. He placed greatest weight on Sale Two, a pre-short sale, due to its location within Bell Cross Ranch and its similar excellent construction quality. Three sales were selected from nearby, competing subdivisions to address the subject's excellent construction quality and size.

Mr. McLeland, without benefit of an interior inspection, was not aware of physical condition issues described by Mr. Westall and made no adjustments within his appraisal. Condition adjustments would require support such as repair estimates.

Mr. McLeland declined the use of Petitioner's comparable sales due to their dissimilarity in size and construction quality.

Petitioner presented insufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax year 2011.

The Board finds Respondent's comparable sales most similar to the subject. Construction quality and size are significant areas of comparability, and Respondent's sales are similar in both size and quality and are located within nearby, competing subdivisions.

The Board acknowledges the subject's foreclosure status at time of sale. It is not persuaded, however, that distress sales define the market; numerous arms' length transactions occurred within the base period. The Board is convinced that market value for the subject property is higher than its distressed sale price would indicate.

The Board is convinced that Respondent failed to address additional features in the appraisal; the subject's outdoor pool, its deferred maintenance, and Sale Two's superior view (\$30,000 to \$40,000 adjustment range). While these items would affect adjusted sale prices, the Board is not persuaded that a revised indicated value would fall below that assigned by the BOE.

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 1st day of November, 2012.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

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

Milla Crichton

Milla Crichton