

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 61788**

Petitioner:

**RICHARD B. QUIGLEY PROFIT SHARING PLAN,**

v.

Respondent:

**BOULDER COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on April 16, 2013, Diane M. DeVries and MaryKay Kelley presiding. Richard B. Quigley appeared pro se on behalf of Petitioner. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2012 actual value of the subject property.

Respondent noted that tax year 2012 is the intervening year in the 2011/2012 reassessment cycle and that, absent an “unusual condition”, the 2011 value should be binding pursuant to Section 39-1-104(11)(b)(I), C.R.S. The Board finds that the taxpayer has the statutory right to challenge a property tax valuation for each tax year, including the second year of the reassessment cycle. *Weingarten v. Bd. Of Assessment Appeals*, 876 P.2d 118, 120-121 (Colo. App. 1994).

Subject property is described as follows:

**6534 Legend Ridge Trail, Niwot, Colorado  
Boulder County Schedule No. R0507395**

The subject is a 0.73 acre vacant site located within Legend Ridge, an upscale subdivision with 45 improved and 8 vacant sites and with homeowner-controlled open space; 36 lie on the interior and 17 on the perimeter. An interior site with a slight slope, it is trapezoid in shape and backs to the interior open space.

Respondent assigned a value of \$325,000 for tax year 2012. Petitioner is requesting a value of \$150,000.

Mr. Quigley contested Respondent's time adjustments. He reported a drop in assigned values within the subdivision from \$400,000 in June 2008 to \$200,000 in June 2010. He argued that the downturn in the housing market, the national recession, and the stock market crash contributed significantly to declining land values. He considered a factor of -1.5% per month appropriate based on data in Niwot, Boulder County and Eagle County.

Mr. Quigley discussed the county's mandatory BuildSmart program, enacted in 2008 with a focus on energy, water efficiency, recycling, and reuse of building materials. The level of compliance relates to the square footage of the residence. Noting that the typical home within Legend Ridge exceeds 6,000 square feet, he argued that the cost of compliance has negatively impacted marketability and values.

Mr. Quigley rejected Respondent's Sale One at 6525 Legend Ridge Trail, arguing that the Texas buyer, uninformed and unfamiliar with the area, overpaid and that the transaction was not arm's length.

Mr. Quigley proposed 6552 Legend Ridge Trail as a better comparison. It sold in September of 2009 for \$460,000 from which he deducted \$300,000 for its partial construction, concluding to a site value of \$160,000.

Mr. Quigley argued that Respondent ignored four Foxhaven Subdivision transactions selling for \$129,534 each.

Mr. Quigley purchased the subject property from FirstBank of Boulder in December of 2009. His requested value of \$155,000 is based on the purchase price of \$200,000, time adjusted and minus water/sewer taps of \$42,000.

Respondent presented a market approach to derive a value of \$360,000. Respondent's witness, Stewart Leach, Certified General Appraiser, presented three comparable sales from within Legend Ridge Subdivision ranging in sale price from \$450,000 to \$529,100. He made adjustments for time, size and location (interior versus perimeter premiums based on paired sales). After adjustments were made, the sales ranged from \$320,175 to \$387,000.

Mr. Leach researched vacant land sales for his time adjustments. Finding the data insufficient, he relied on sales of improved residential properties within the subject's marketing area.

With regard to Petitioner's comments regarding Sale One (6525 Legend Lake Trail), Mr. Leach disagreed that the purchaser was uninformed and noted the higher sale price reflected size and its perimeter location.

Mr. Leach disqualified the subject's purchase in 2009 as a comparable, considering it a foreclosure. Because a certificate of purchase was secured from the bank, the transaction was not arm's length.

Mr. Leach rejected Foxhaven sales. The half-acre lots were smaller with inferior views and near a fire station. Also, the four-lot transaction was bulk. He also declined to use the partially-built 6552 Legend Lake Trail as a comparable sale: the transaction was a short sale; its partial construction required both completion, repairs to a weathered exterior, and damage resulting from lack of roofing; sales of vacant sites were preferable.

Mr. Leach disagreed that the BuildSmart program negatively affected values. He observed no adverse impact on purchases of land or on new construction.

Petitioner presented insufficient probative evidence and testimony to show that the tax year 2012 valuation of the subject property was incorrect.

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties within the subdivision and adjusting for time and a variety of characteristics.

Petitioner presented an equalization argument, which can only be considered if evidence or testimony is presented showing the assigned values were derived by application of the market approach and that each comparable was correctly valued; mass-appraised assigned values are not persuasive. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

The Board finds that Respondent's time adjustments based on comparisons of improved lot sales are appropriate.

### **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 3rd day of May, 2013.



**BOARD OF ASSESSMENT APPEALS**

*Diane DeVries*

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Diane DeVries

*MaryKay 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