

<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>STEPHAN &amp; ESTHER LUSTIG JT TEN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 62047</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 28, 2013, Brooke B. Leer and James R. Meurer presiding. Petitioner was represented by Stephan Lustig, *pro se*. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**5949 South Akron Circle Greenwood Village, Colorado  
Arapahoe County Parcel No. 2075-22-2-10-008**

The subject is a two-story, single-family house located in the Sundance Valley submarket in the City of Greenwood Village, Arapahoe County. The house was constructed in 1982, and includes 3,064 square feet of above-grade living area. There is a 760 square foot unfinished basement and a two car garage. Lot size appears typical for the neighborhood, and the overall condition of the property is reported to be average.

Petitioner is requesting an actual value of \$400,000 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of \$500,000; however is deferring to the Board of Equalization’s (BOE) assigned value of \$475,900 for tax year 2013.

Petitioner’s witness, Mr. Stephan Lustig, presented three comparable sales to support his opinion of value. All of the sales were residential properties located in the same or similar subdivisions as the subject. Sale prices ranged from \$575,000 to \$649,900 and dates of sale ranged from May of 2011 to May of 2012. Petitioner made no adjustments to the sales and

reconciled to a value of \$400,000 for the subject. In addition, Mr. Lustig provided a rebuttal document addressing the three sales provided by Respondent.

Further, Mr. Lustig testified that the appraisal provided by Respondent was inaccurate and mischaracterized the property. Mr. Lustig testified that Respondent failed to recognize differences between the subject property and the comparables relative to location, influence of greenbelts and cul-de-sacs, and the finish and quality of basements. Mr. Lustig further indicated that the removal of a cottonwood tree from the front yard also negatively impacted the value of the house, and that his lot value was inferior to the lot values of the comparables.

Respondent's witness, Ms. Michelle Doll of the Arapahoe County Assessor's Office, developed a market (sales comparison) approach and presented three comparable sales to support her opinion of value. All of the sales were located in the same subdivision as the subject and sale prices ranged from \$590,000 to \$642,000 prior to adjustments, and \$467,798 to \$550,054 subsequent to adjustments. All of the sales occurred in the statutory base period. The significant adjustments to the sales consisted of date of sale (time), construction quality, living area, basement and basement finish, walk-out basement, garage, AC, and deck/patios. All of the sales were given equal weight in the conclusion of final value of \$500,000.

Ms. Doll testified that Respondent did not consider time adjustments, or the physical characteristics of the subject and comparables in the analysis.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales accurately reflect the market value for the subject property. The sales used by Respondent were located in the same subdivision as the subject, and were clearly representative of the market. The Board further concludes that the issues raised by Petitioner relative to location, influence of greenbelts and cul-de-sacs, and the finish and quality of the basement have been recognized in the assigned value.

## **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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

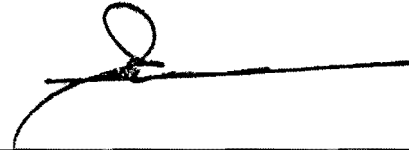
Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 4th day of November, 2013.

**BOARD OF ASSESSMENT APPEALS**

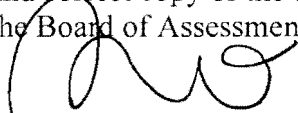


Brooke B. Leer



James R. Meurer

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



Milla Lishchuk

