

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALBERT C. RUCKMAN,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62124</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 29, 2013, Diane M. DeVries and Gregg Near presiding. Petitioner appeared *pro se*. Respondent was represented by David Frankel, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**3491 E Road
Palisade, Colorado 81526
Mesa County Schedule No. R026926**

The subject property consists of a 2-story 6,962 square feet Victorian style custom home situated on 6.2 acres. The home was constructed in 2006 and is rated as “superior” quality by the assessor. The home has numerous upgrades including such extras as murals on vaulted ceilings in the turrets; custom kitchen with tin ceiling tiles; 2 floor to ceiling custom stone fireplaces; custom cabinetry and over-height ceilings on both floors. The subject site contains 1.5 acres of fruit trees and almost 2 acres of irrigated land. There is also a 2,880 square foot equipment shed with a kitchen and ¼ bath, cattle sheds and 80 photo-voltaic solar panels.

Petitioner is requesting a return to the previous year’s assigned value of \$1,023,000 for the subject property for tax year 2013. Respondent determined a value of \$1,440,000 for the subject property for tax year 2013 but is deferring to the CBOE value of \$1,189,100.

Petitioner presented an equalization argument noting a number of properties in the county that have declined in their appraised values from the previous valuation period. Petitioner considered unfair that his value has risen in the current period but, with only one other exception, all other property values in the area have declined. Petitioner referenced Respondent's Sale 1, on 33 ½ Road, and noted the county's value on that property for tax purposes was more than half his own. Petitioner stated he only desired equal treatment. Petitioner also pointed to the adverse influence of a commercial building in use as a body shop located on the adjacent property and indicated this condition was not adequately addressed by Respondent.

Petitioner is requesting a 2013 actual value of \$1,023,000 for the subject property.

Respondent's witness Matt Barber, a Certified Residential Appraiser, presented a value of \$1,440,000 for the subject property based on the market approach.

Mr. Barber presented four comparable sales ranging in sale price from \$1,151,000 to \$1,700,000 and in size from 4,279 to 6,316 square feet of above grade living area. After adjustments were made, the sales ranged from \$1,245,760 to \$1,525,520.

The witness stated the subject property was larger than any sale that transpired within the 18-month valuation period and that the level of upgrading exceeded the amount typically seen. The improvements were assigned a "superior" quality rating.

Mr. Barber adjusted all the sales in a similar manner. All sales were adjusted downward for a declining market during the study period. Significant upward adjustments were made to all of the sales to represent the subject's larger living area. Other larger adjustments were applied for basement and basement finish as well as for outbuildings and garage areas. Sale 4, which Mr. Barber indicated was included in order to bracket the upper end value, was adjusted downward significantly for "outstanding" quality with additional upgrades.

Sale 1, with an adjusted indication of \$1,462,080, was given most weight in the value estimate. Sales 2 and 3 were given progressively less weight with Sale 4 again included only to bracket the value range.

Respondent determined an actual value of \$1,440,000 to the subject property for tax year 2013 but is recommending a reduction to the amount affirmed by the BOE of \$1,189,100.

Petitioner contended Respondent did not give enough consideration to the adverse influence of the body shop next door. Petitioner, particularly in the case of Respondent's Sale 1, did not believe the county was valuing his property in the same manner as others.

Respondent noted that Petitioner has provided no comparable sales and had relied only upon criticism of the sales used in Respondent's report. Respondent also considered Petitioner's primary argument to be equalization and, in the case of the disputed Sale 1, Respondent has since been allowed an interior inspection due to a tax appeal. The inspection revealed a previously unknown high level of upgrading; according to Respondent that property value will be increased in the next

valuation period. Respondent also pointed to the significantly higher value determined by the site specific report that further supported the value assigned and affirmed by the BOE. Regarding the adverse influence of the body shop, Respondent indicated the building was in place at the time Petitioner built the subject property and Petitioner clearly arranged the home and site improvements to screen out the visual impacts of the adjacent property.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The Board agrees with Respondent that Petitioner has provided no comparable sales to support his value opinion. Petitioner's equalization argument, though persuasive in the mass valuation sense, is not supported by Respondent's site specific analysis. The argument is further weakened by Respondent's successful effort to obtain an interior inspection of the disputed property (Sale 1) and correct the record from this point forward. The Board is not fully satisfied with Respondent's valuation either. Omission of any discussion and perhaps an adjustment for the more unusual situation of a body shop neighbor in a high-end residential area seems appropriate. Adjustments for the comparable basements appear to be based on size but are actually the result of inferior utility of below grade space. Finally, the adjustment for better upgrades to Sale 4 needs much better explanation in light of Respondent's own comments that the subject has a unique level of upgrading that exceeds the typical.

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-nine 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.

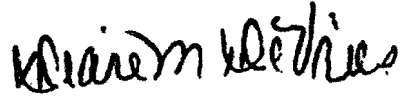
If the Board does not recommend its decision to be a matter of statewide concern or to have

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.

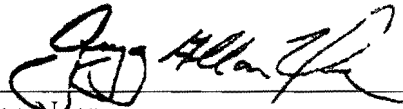
Section 39-8-108(2), C.R.S.

DATED and MAILED this 21st day of November, 2013.

BOARD OF ASSESSMENT APPEALS

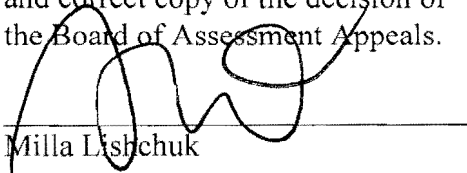


Diane M. DeVries



Gregg Near

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



Milla Lishchuk