

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 62703

Petitioner:

STEPHEN R. AND NEYESKA G. MUT,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

AMENDED ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 27, 2014, Brooke B. Leer and MaryKay Kelley presiding. Petitioners were represented by Mills H. Ford, Agent. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**3 Churchill Drive, Englewood, Colorado
Arapahoe County Schedule No. 2077-02-2-01-017**

The subject is an 8,591 square foot home with basement, garages, swimming pool, tennis court, and security fencing. It was built in phases (1926, 1985, and 2004 estimated) on a 2.65 acre site bordering the Cherry Hills Country Club golf course.

Respondent assigned an actual value of \$5,476,500 for tax year 2013 but is recommending a reduction to \$5,370,000. Petitioners are requesting a value of \$4,575,000.

Petitioners' agent, Mr. Ford, Certified General Appraiser, discussed the subject site, which is larger than the typical lot in Cherry Hills. The site is also encumbered by a 60 foot easement for a water transmission line installed in 1930 by the Denver Water Board. Improvements cannot be constructed over the easement.

Mr. Ford presented a market approach for the subject to derive a value of \$4,575,000. He included five comparable sales ranging in sale price from \$2,400,000 to \$4,500,000 and in

size from 5,364 to 10,177 square feet. After adjustments were made, sale prices ranged from \$3,940,356 to \$4,995,862.

Mr. Ford described the subject's physical deficiencies: multiple additions resulting in functional obsolescence; varying levels of living space; multiple heating units and insufficient air conditioning; location of the kitchen in the oldest portion of the main floor, which limits renovation; and low ceilings in some living areas and in the basement. Additionally, he applied a 20% adjustment for the negative influence of the water line easement.

Respondent presented a market approach to derive a value for the subject of \$5,370,000. Respondent's witness, Merry L. Fix, Certified Residential Appraiser, presented three comparable sales ranging in sale price from \$2,250,000 to \$5,250,000 and in size from 5,321 to 8,346 square feet. After adjustments, sale prices ranged from \$5,127,699 to \$5,568,560.

Ms. Fix was denied access to the property. While agreeing that functional obsolescence existed due to the varying ages of construction, she referred to a permit for a new kitchen at a cost of \$2,090,844. She disagreed that the water line easement was a negative influence, noting mature landscaping throughout the easement and the large lot size affording room for expansion.

Ms. Fix discussed Petitioners' comparable sales. Sale One reported incorrect basement square feet and the amount of finish. Sale Two was a ranch elevation, not the two-story home in the photo, and not considered a good comparison for the subject property when other two-story homes were available. Sale Three was in poor condition and, therefore, not a good selection.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value.

The Board is not persuaded that the easement for the water transmission line negatively impacts value. The lot size offers ample space for expansion, and its mature landscaping offers privacy. In addition, the subject's large acreage is offsetting.

The parties agreed on several issues: multiple additions, remodeling, and functional obsolescence. The Board finds discrepancies in Mr. Ford's methodology that question reliability on his arguments: comparable sale selection, absence of adjustments for lot size, the unsupported 20% adjustment for the water line easement, obsolescence addressed in the construction quality adjustment, and his methodology for prime living space adjustments.

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). Respondent's testimony and evidence was persuasive; Petitioners' was not.

ORDER:

The petition is GRANTED. The 2013 actual value of the subject property shall be reduced to Respondent's recommended value of \$5,370,000.

Arapahoe County Assessor is directed to change his/her records accordingly.

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).

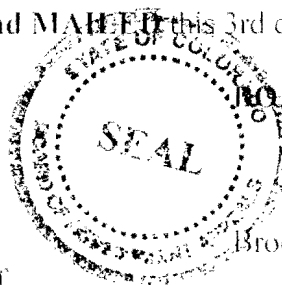
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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-nine 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 April, 2014.



BOARD OF ASSESSMENT APPEALS

Brooke B. Leer

Brooke B. Leer

MaryKay Kelley

MaryKay Kelley

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

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Milla Lischenak