

<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>ROGER AND LYNNE E. VAN DOK,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63035</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 3, 2014, Diane M. DeVries and MaryKay Kelley presiding. Roger Van Dok appeared pro se on behalf of Petitioners. Respondent was represented by David Wunderlich, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**15052 West 76<sup>th</sup> Drive, Arvada, Colorado  
Jefferson County Schedule No. 075911**

The subject is a 2,872 square foot ranch-style residence with basement and garage. It was built in 1977 on a 2.572 acre site in Northwood Acres with A-1 zoning that allows horses.

Respondent assigned an actual value of \$568,000 but is recommending a reduction to \$554,000. Petitioner is requesting a 2013 actual value of \$519,800.

Mr. Van Dok presented a market approach previously prepared by Respondent at the assessor's level of appeal. It included two comparable sales: Sale One at \$415,000 (2,222 square feet) and Sale Two at \$407,300 (3,581 square feet). After adjustments, the indicated values were \$557,900 and \$374,400 respectively, and market value was concluded at \$466,150. Sale Two was reported by Respondent's witness to be a foreclosure; Petitioner suggested a \$100,000 negative adjustment be made to it to reflect the distress nature of the transaction.

Mr. Van Dok argued that the original actual value set by the Assessor to the subject property, \$666,650 for tax year 2013, increased by 28.25% from tax year 2011. In comparison, single family homes within incorporated cities reported an increase of only 0.3%.

Mr. Van Dok applied the percentage change in actual values of multiple ranch elevations from 2011 to 2013 which supports the subject's 2011 actual value of \$519,800 on which he relied.

Mr. Van Dok found Respondent's BOE comparable sales to be dissimilar to the subject due to their locations in Spring Mesa, a Planned Unit Development unlike the subject's horse-zoned Northwood Acres. He also found comparable sales presented by Respondent at the BAA hearing to be dissimilar; only one was a ranch elevation and none were identified as horse properties.

Respondent presented a value of \$554,000 for the subject property based on the market approach. Respondent's witness, Cary Lindeman, Certified Residential Appraiser, presented four comparable sales ranging in sale price from \$500,000 to \$542,500 and in size from 2,731 to 3,605 square feet. After adjustments were made, the sales ranged from \$524,900 to \$584,200. She made no adjustments for difference in property types (horse zoning, PUDs), considering their differences to be buyer preference. All adjustments were derived from paired sales analysis. She averaged the four for her value conclusion.

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

The Board recognizes the multiple stages in the assessment process and hopes that explanations at the hearing satisfactorily defined mass appraisal (computer-generated market grid presented at the assessor and BOE levels of appeal), site-specific appraisal (presented at the BAA level of appeal), support for adjustments, and constitutional and statutory constraints.

Both state constitution and statute require use of the market approach to value residential property. Petitioners presented an equalization argument (comparison of actual values), 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. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997).

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). Petitioners presented no testimony or evidence to convince the Board that Respondent's market analysis was incorrect.

The Board agrees with Respondent that Sale Two in the BOE sales analysis is not comparable to the subject because it was a foreclosure; distress sales reflect a different price than sales without duress. Application of Petitioners' suggested \$100,000 adjustment for foreclosure status was not supported by market data.

The Board, in review of Petitioners' Sale One, considers it to be comparable due to its similar acreage and horse zoning. However, its indicated value is \$557,900, which supports Respondent's recommended value of \$554,000.

After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales accurately reflect the market value for the subject property.

**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-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 10th day of February, 2014.

BOARD OF ASSESSMENT APPEALS

*Diane M DeYries*

Diane M. DeYries

*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 Lishchuk*

Milla Lishchuk

