

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 63467

Petitioner:

RYAN R. & JULIE S. HEIDEMANN,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 26, 2014. Louesa Maricle and Debra A. Baumbach presiding. Mr. Ryan Heidemann appeared *pro se* on behalf of Petitioners. Respondent was represented by Michael A. Koertje, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**6482 Cherry Court, Niwot, Colorado
Boulder County Schedule No. R0113206**

The subject property is a single family residence located in the Somerset Estates Subdivision, in Niwot. The subdivision consists of high-end homes with typical sites ranging from slightly over a half acre to two acres. The subject residence is a two-story design with frame and brick veneer exterior built in 1994. The home has 4,232 square feet of above grade living area, a finished basement area of 1,193 square feet and 742 of unfinished basement area. The interior of the home includes: three bedrooms, one study/bedroom and five and a half bathrooms. There is an attached 866 square foot side entrance garage. The home is situated on 1.12 acre site and was reported to be in very good condition.

Petitioners are requesting an actual value of \$808,427 for the subject property for tax year 2013. Respondent assigned a value of \$1,295,700 for the subject property for tax year 2013 but is recommending a reduction to \$1,000,000.

Mr. Ryan Heidemann, contended Respondent used comparable sales that were significantly superior in quality, location, condition, amenities and views. Mr. Heidemann stated that Respondent did not adequately adjust the value of his property for having only a partial view as opposed to Respondent's comparables having unobstructed mountain and foothill views. According to Mr. Heidemann, Respondent's comparable sales have a higher room count and a higher level of amenities, updating and walk-out basement areas that were not given adequate consideration. Mr. Heidemann testified that the subject property has three full size bedrooms and one bedroom with a large opening in a wall viewing down to the main living area. The room has limited utility and adjoins a Jack and Jill style bathroom. The residence has minimal updating and because of the sunken family room, the basement ceiling height is insufficient to fully finish the basement according to current building regulations. The only improvement to the property was a solar system installed in 2010.

Mr. Heidemann presented four comparable sales ranging in sales price from \$880,000 to \$1,125,000 and size from 4,626 to 5,721 square feet. Mr. Heidemann testified that he made no adjustments to the sales and based the value on calculating the average price per square foot for the above grade living area on each of the sales. Mr. Heidemann concluded to a value of \$191.03 per square foot and then multiplied the \$191.03 by the subject's 4,323 square feet above grade living area concluding to a value of \$808,427.52.

Petitioners' witness, Ms. Lisa Desmarais, Certified Residential Appraiser, testified she prepared a general market analysis for the subject property. Ms. Desmarais testified she compiled thirteen sales within the subject's market area that were superior, inferior and similar to the subject in order to determine a median value range for the subject property. Ms. Desmarais did not make any adjustments to the sales and did not conclude to a value for the subject property. Ms. Desmarais confirmed that the subject did not have similar views to other properties in the subdivision and should be adjusted for the differences.

Mr. Stewart A. Leach, a Certified General Appraiser with the Boulder County Assessor's Office, testified he completed a full inspection of the subject property. Mr. Leach presented three comparable sales ranging in sales price from \$791,000 to \$1,150,000 and in size from 3,224 to 4,796 square feet, excluding basement area. After adjustments were made for market conditions and differences in physical characteristics, the sale prices ranged from \$982,000 to \$1,076,000. Mr. Leach concluded to a value for the subject property of \$1,000,000.

Mr. Leach testified the Assessor's Office relied on a 24 month study period to include a broader scope of sales and was able to identify 19 sales in the subject's market area. Mr. Leach relied on three sales within the 18 month base period. All three sales were located within a half block from the subject property and shared similar market perception. The witness testified that all the properties within the subdivision have excellent views of the mountains and foothills and therefore, no adjustments for views were required. In addition, Mr. Leach testified that no adjustments were made for some of the comparable sales' larger bedroom count (six as opposed to subject's four bedrooms) as the comparables with larger bedroom counts were either larger or smaller than the subject in above grade square footage and therefore the larger bedroom count meant smaller bedrooms, which some buyers may find unappealing and affecting the overall utility of the rooms.

Adjustments were made for differences in market conditions, site size, age, square footage, quality rating bathroom count, walk out basement area finish.

Mr. Leach testified that Petitioners' sales were not considered appropriate because three out of Petitioners' four sales were the first sales out of foreclosure and therefore not representative of full market value. Petitioners' Sale 4, located at 8293 Cattail Drive, was the only non-foreclosure sale and also used by Respondent. In addition, Mr. Heidemann did not adjust any of the sales for differences affecting the value. Mr. Leach contended Petitioners concluded to a value based on a price per square foot for only the above grade living area not taking into consideration the basement area and other features. In addition, the above grade square footages reported by Mr. Heidemann for all of Petitioners' sales did not match the property record information on file in the Assessor's Office. Mr. Leach gave minimal consideration to Ms. Desmarais' market analysis because the sales she included in the analysis were from a competing subdivision and reflected different market perception.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property should be reduced from Respondent's recommended value of \$1,000,000.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced that Respondent's recommended lower value of \$1,000,000 is supported and accurately reflects market value. The Board gave no weight to Petitioners' methodology in using an average price per square foot and applying it to only the above grade square footage; it is not appropriate appraisal methodology in valuing residential property. Petitioners did not present the Board with alternative photos demonstrating that the subject property has inferior views to the sales requiring adjustments. Additionally, Petitioners did not present any refuting evidence that Respondent failed to adequately adjust the sales for differences and that the adjustments were not derived from market extraction.

Respondent utilized sales within the applicable time period, within one-half mile of the subject property and performed an onsite inspection of the subject property. All factors affecting the value were taken into consideration and adjustments were made. Respondent recommended a lower valuation of the subject property based on the site-specific appraisal.

The Board concludes that the 2013 actual value of the subject property should be reduced to Respondent's recommended value of \$1,000,000.

ORDER:

The appeal is granted. Respondent is ordered to reduce the 2013 actual value of the subject property to \$1,000,000.

The Boulder 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



Louisa Maricle

Debra A. Baumbach

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

Milla Lishchuk