

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EUGENE AND DARIA GIRON,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63476</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 15, 2014, Gregg Near and MaryKay Kelley presiding. Daria Giron appeared *pro se* on behalf of Petitioners. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**8252 Union Street, Arvada, Colorado
Jefferson County Schedule No. 442505**

The subject is a 3,871 square-foot two-story home built in 2007 on a 14,037 square foot site. It is one of two homes in the small infill Bob Scott Minor Subdivision.

Respondent assigned an actual value of \$588,390 for tax year 2013 but is recommending a reduction to \$565,000. Petitioners are requesting a value of \$392,000.

Ms. Giron described the subject property as green-built construction with multiple issues affecting habitability, marketability and value. Ms. Giron described a shared driveway with the only other house in this small subdivision. Access to her site is via easement across neighboring property.

Ms. Giron outlined structural issues within the subject improvement. Roof trusses were not properly attached, resulting in water intrusion. Also, poor construction throughout equated to gaps between ceilings and walls and water penetration from both the roof and ground. An undersized

forced air system resulted in an uneven distribution of heat, lack of heat on the second floor, and inoperable air conditioning.

Ms. Giron described an unfinished interior (flooring, cabinets, fireplace), peeling concrete floors, and three bedrooms without closets. Also, landscaping and sprinkler system were installed on only a portion of the site.

Ms. Giron based the requested value on her \$392,000 purchase price of the subject property on April 27, 2010.

Ms. Giron presented a Comparative Market Analysis comprised of eleven two-story sales demonstrating the marketability and comparison of traditionally-built homes. Ms. Giron placed greatest weight on Sale One at 8262 Union Street, which is located next door to the subject and was selected for this reason and because it shares the subject's driveway. It is a ranch elevation, smaller than the subject, and was a short sale.

The other ten comparables are two-story elevations like the subject and ranged in sale price from \$390,000 to \$550,000 and in adjusted sale price from \$345,100 to \$560,000. Some adjustments were applied by Petitioner; a value conclusion was not made.

Respondent presented a market approach to derive a value of \$565,000. Respondent's witness, Renee Nelson, Registered Appraiser, presented three comparable sales, all two stories ranging in sale price from \$515,000 to \$595,000 and in size from 3,184 to 3,757. Adjusted sale prices ranged from \$558,400 to \$643,700.

Ms. Nelson agreed that the subject's access issue negatively impacted value and applied "contributory" adjustments to all comparable sales.

Ms. Nelson described the subject as a green-built custom home ("very good" Quality Five per the Assessor's office) with designer showers, custom staircase, custom tile, and bamboo flooring. Following inspection, she downgraded the construction quality to a "good" Quality Four in order to address the subject's interior deficiencies. She selected comparable sales, all traditionally-built homes, with quality ratings of Four and made adjustments for improvement size and room count, basement size and finish, garage, walkout (Sale Three), air conditioning (acknowledging the subject's system as inoperable), fireplaces, and patios/decks.

Ms. Nelson's adjusted value range (\$558,400 to \$643,700) supported the actual value of \$588,390. She applied an additional \$23,390 adjustment to all three sales to address the subject's interior deficiencies, reconciling to a value of \$565,000. She made no direct adjustments for structural issues because she had no support or cost to cure from a professional inspection. She made no adjustments for the subject's partial landscaping, stating that it did not impact marketability or value.

Ms. Nelson used neither the subject property nor the neighborhood property at 8262 Union Street (Petitioner's Sale One) because both were short sales, not arm's length transactions.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value of \$565,000.

While Petitioner considers her purchase of the subject property for \$392,000 to be the best indicator of value, the Board agrees with Respondent that the transaction involved a short sale and does not meet the definition of an arm's length transaction.

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). Petitioner failed to present sufficient probative evidence to dispute Respondent's recommended value.

The Board reviewed Petitioner's Comparative Market Analysis. Sale One, a short sale, is not considered an arm's length transaction and does not provide reliable indication of value for the subject. Sales Two through Eleven were not adjusted for basement size and finish, patios and decks, and interior features. The Board is not persuaded that any of the eleven were superior comparable sales than those presented by Respondent.

The Board agrees that the subject property is unique. While Respondent's witness addressed deficiencies, adjustments to structural and mechanical systems require professional inspections and cost to cure estimates. Petitioner did not challenge Respondent's methodology of downgrading the subject's quality rating or Respondent's additional \$23,390 adjustment to all sales.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$565,000.

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.

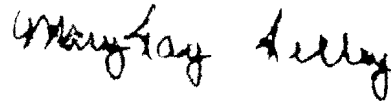
Section 39-8-108(2), C.R.S.

DATED and MAILED this 28th day of May, 2014.

BOARD OF ASSESSMENT APPEALS

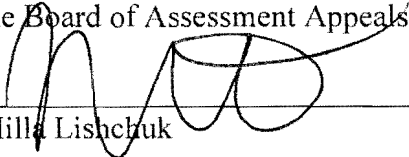


Gregg Near



MaryKay Kelley

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


Milla Lishchuk