

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BARBARA AND MARK STAGER,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63565</p>
<p><i>AMENDED ORDER</i></p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 29, 2014, Brooke B. Leer and Debra A. Baumbach presiding. Ms. Barbara Stager appeared on behalf of Petitioners. Respondent was represented by Mark Doherty, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**8068 Bellflower Court, Niwot, Colorado
Boulder County Schedule No. R0108810**

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 one to two acres, with a few smaller and larger sites. The subject residence is a two-story design with frame and brick veneer exterior built in 1996. The home has 5,019 square feet of above grade living area, and a 2,545 square foot fully finished walk-out basement. The interior of the home includes five bedrooms, three full bathrooms; one three-quarter bathroom and two half bathrooms. There is an attached 1,426 square foot side entrance garage. The home is situated on 1.66 acre site backing to open space and was reported to be in very good condition.

Petitioners are requesting an actual value of \$1,077,000 for the subject property for tax year 2013. Respondent assigned a value of \$1,499,500 for the subject property for tax year 2013 but is recommending a reduction to \$1,350,000.

Petitioners' witness, Ms. Barbara Stager, contended Respondent has overvalued the subject property by selecting comparable sales that were significantly superior in location and views. Ms. Stager stated Respondent did not adequately adjust the value of the subject property for having an inferior view and location as opposed to Respondent's sales having superior locations and views. According to Ms. Stager, Respondent's Sale 3 is located in a competing neighborhood consisting of newer and superior homes and Sale 1 was under contract and did not close until after the statutory base period. Ms. Stager stated that there were a sufficient number of sales within the time period that were located in the subject's subdivision; neither Respondent's Sale 1 or 3 needed to be considered in the valuation.

Ms. Stager presented five comparable sales ranging in sales price from \$791,000 to \$1,125,000 and size from 3,200 to 5,721 square feet. Ms. Stager testified she made adjustments to the sales for differences in physical characteristics based on adjustment calculations used at the CBOE level of appeal and concluding to a value of \$1,076,927 (1,077,000 rounded).

Ms. Stager relied on data from IRES multi-list service for each of the sales used. Adjustments for differences were based on adjustment calculations that were used at the CBOE level of appeal and applied to the sales for differences reported on the multi-list reportings for each of the sales.

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 four comparable sales ranging in sales price from \$1,132,000 to \$1,525,000 and in size from 4,397 to 6,024 square feet, excluding basement area. After adjustments were made for market conditions and differences in physical characteristics, the sale prices ranged from \$1,249,000 to 1,476,000. Mr. Leach concluded to a value for the subject property of \$1,350,000.

Mr. Leach testified the Assessor's Office relied on an extended 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 four sales that best represented the market at the time. Comparable Sales 1, 2 and 4 are located within the subject subdivision and Sale 3 is located 1.04 miles southeast in an adjoining and competing subdivision. The witness testified the sales bracket the subject property and adjustments were made for all factors affecting the value.

Sale 1 was given significant weight based on location directly next door to the subject property. This sale is similar to the subject property in location, views and abuts open space. Adjustments were made for differences in physical characteristics. Although this sale did not close until July 2012, under *Platinum Properties Corporation, et al, v. Board of Assessment Appeals, et al.*, 738 P2d 34 (Colo. App. 1987) it is permissible to use in the valuation analysis. Sale 2 was given significant weight based on location around the corner from the subject property. This sale has a larger site size that slopes downward to open space; it was adjusted for views and a larger site size. Sale 3 is located in a competing subdivision and comparable to the subject's area; it is newer in construction, has a smaller site size and abuts private open space. This sale was given lesser weight in the reconciliation. Sale 4 is located higher on the ridge, had a smaller site, and excellent views. This sale was adjusted for smaller site size, excellent views and for inferior location (not near open space) and was given lesser weight in the analysis.

Mr. Leach disagreed with Petitioners' adjustments as they were based on mass appraisal calculations at the CBOE level as opposed to market extraction based on site specific appraisal.

The burden of proof is on a 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 Respondent's recommended lower value of \$1,350,000 is supported and accurately reflects market value. The Board gave minimal weight to Petitioners' adjustment calculations. The Board found inconsistencies in Petitioners' adjustments. Petitioners' Sale 1 was adjusted upward for smaller site whereas Sales 2, 4 and 5 had no adjustments for site size differences. Adjustments were made for mountain views but no adjustments were made for location next to open space. Petitioners relied on IRES multi-list data in reporting comparables' physical characteristics. However, there were inconsistencies in information reported by IRES and what was reported by Petitioners. Petitioners did not present the Board with sufficient refuting evidence that Respondent failed to adequately adjust the sales for differences in views, location and other physical characteristics.

The Board gave most emphasis to Respondent's comparable sales and adjustments. Respondent utilized sales that took place within the applicable time period, within close proximity 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 appraisal. Respondent gave less weight to Sale 3 located in a competing neighborhood and gave significant weight to Sale 1. The Board agrees that Sale 1 is the most comparable sale to bracket the subject in location and view. The Board concluded that property sales occurring within the base appraisal (data-collection) period, but not formally closed until after the end of the base period, can be included in consideration when determining the true and typical sales price of the property. The Board found the final value conclusion is within the range of sales presented by both parties.

The Board concludes that the 2013 actual value of the subject property be reduced to Respondent's recommended value of \$1,350,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$1,350,000.

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).

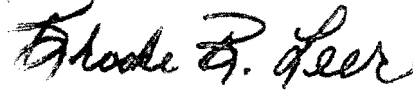
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

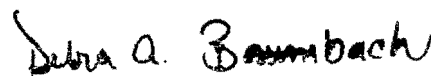
DATED and MAILED this 19th day of May, 2014.

BOARD OF ASSESSMENT APPEALS

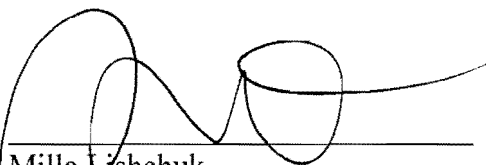


Brooke B. Leer

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



Debra A. Baumbach


Milla Lishchuk