

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 63866

Petitioner:

CASTLE ROCK DEVELOPMENT COMPANY,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 9, 2014, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2013 actual value of the subject property.

The parties stipulated to the admission of Petitioner's Exhibits A and B; to Respondent's Exhibits 1 and 2; and to the qualifications of the witnesses.

The parties submitted a partial stipulation concerning eighty-one (81) of the 486 accounts that were originally appealed before the Board. Per stipulation, the valuation of the remaining 405 accounts remains in dispute.

Subject property is described as follows:

Douglas County Schedule Nos. R0462200+485

Although the above agreement states 405 accounts are in contention, the parties presented value opinions for Filing 18 only. Filing 18 contains 383 paper platted lots on 68.37 acres in The Meadows Subdivision within the town of Castle Rock.

The subject lots range from 0.083 to 0.671 acres. 174 of the lots are located west of Red Hawk Drive with a median size of 0.133 acres. The 209 remaining lots located east of Red Hawk Drive have a median size of 0.198 acres.

Petitioner presented the following indications of value:

Market:	\$2,050,965
Cost:	Not Applied
Income:	Not applied

Petitioner is requesting an actual value of \$2,050,965 for the subject properties for tax year 2013.

Petitioner's witness, Mr. Todd J. Stevens of Stevens and Associates Cost Reduction Specialists, Inc., presented a market approach consisting of eight transactions ranging in sale prices from \$475,000 to \$2,050,000 on parcels ranging in size from 8.6 to 132.36 acres. The sales were entitled for 3 lots to 301 lots representing unadjusted prices from \$11,905 to \$138,631 per acre. Adjustments were applied to the sales for location, size and condition {level of development}. After adjustments, the sales ranged from \$11,095 to \$62,384 per acre. Mr. Stevens concluded to a value opinion of \$30,000 per acre for the subject. Based on the platted 383 lots under consideration the unit value is \$5,355 per lot. At a unit value of \$5,355 per lot Mr. Stevens concluded to a final value of \$2,050,965.

Respondent presented the following indicators of value:

Market:	\$12,875,280
Cost:	Not applied
Income:	Not applied

The above value included 22 lots within Meadows Filing 16 whose value is no longer at issue. Respondent's conclusion, after removal of the stipulated lots, was \$11,987,280. Respondent assigned a value of \$11,987,280 for the subject property for tax year 2013 but is deferring to the value assigned by the CBOE of \$6,172,045 (383 lots times \$16,115 per lot).

Respondent's witness Mr. Steven W. Campbell, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented a market approach consisting of two comparable sales located within the Meadows Subdivision. The first sale was for 32 paper platted lots with a median size of 0.122 acres and an unadjusted price of \$30,300 per lot. Sale 2 contained 32 paper platted lots with a median size of 0.182 acres and an unadjusted price of \$40,825 per lot. Sale 1 was adjusted downward for partial infrastructure at \$3,000 per lot. Mr. Campbell considered the 174 lots west of Red Hawk Drive, with a median lot size of 0.133 acres, to be most similar to Sale 1. The 209 lots east of Red Hawk Drive have a median size of 0.198 acres and they were considered most similar to Sale 2. Because the sales involved larger numbers of lots than are under consideration here, Mr. Campbell applied a 10% economy of scale adjustment to both transactions. After adjustment the 174 lots west of Red Hawk Drive had an indicated value of \$24,570 apiece. The remaining 209 lots had an indicated value of \$36,900 each.

Mr. Campbell applied the unit values to the number of lots in each location and concluded to the following:

Subdivision	# Accounts	\$/Account	Total Value
Meadows 18	174	\$24,570	\$4,275,180
Meadows 18	209	\$36,900	\$7,712,100
Total:	383		\$11,987,280

Based on the 68.37 acres in Filing 18 (Pet.1, p. 17) Mr. Campbell concluded to a per acre value for the subject property of \$175,330.

Mr. Campbell provided an additional analysis of raw land sales and determined a median raw land value per acre of \$138,631 based upon nine transactions that occurred during the base period. As the improved value per acre exceeded the value per acre of raw land Mr. Campbell concluded his analysis to have been appropriate.

Petitioner contends the County's use of only two sales is insufficient. According to Petitioner, the sales used in Respondent's valuation were in various stages of development and this was not correctly considered in the analysis. Respondent has determined a raw land value of over \$175,000 per acre which is unreasonable as it exceeds the majority of transactions considered in Respondent's own report and also exceeds the raw land value determined in the mass appraisal. Petitioner also asserts that the County has inappropriately dismissed Real Estate Owned (REO) sales citing the Tabor Amendment language that such sales "shall be" considered.

Respondent contends Petitioner ignored the two best sales in the subject subdivision and chose inappropriate and inferior sales some of which are 40-65 miles away from the subject. Petitioner used and relied upon REO transactions resulting in artificially low value opinions. The subject is a superior master-planned community and Petitioner's sales do not represent the same market.

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 information presented at the hearing the Board has determined Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The Board was not persuaded by Petitioner's comparables. Sales 1, 2, 3 and 5 were REO transactions. Accordingly the Board has considered the above and has found them to be insufficiently representative of actual value.

The Board agrees with Respondent that using comparable sales from distant locations, without appropriate support and/or adjustment, does not reasonably represent values in the subject location. Therefore little weight was given to Petitioner's Sale 4. The Board found Petitioner's Sale 8 involved three 10-acre lots. These are not comparable to the median subject lot sizes of 0.133 acres to 0.198 acres. Sale 8 is not representative of the market for the subject and not attractive to the same buyer. The Board determined Petitioner's remaining sales 6 and 7, with a total of 107 combined lots,

were sold in the same month for identical unit prices of \$22,500 per paper platted lot. Petitioner suggests these sales are from a better location closer to Denver but the Board considers that factor more than offset by the negative influence of overhead power lines on the lots and the lack of amenities equal to those of the subject's master planned community. These two sales would need a negative adjustment of greater than 75% of unit value to approach Petitioner's conclusion of \$5,355 per lot.

The Board was also concerned that Petitioner's appraiser did not report the two sales within the subject subdivision that were presented by Respondent. The exclusion of these clearly comparable transactions appears to have resulted in an unsupportable value conclusion.

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-five 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 27th day of June, 2014.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Gregg Near

Gregg Near

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

Milla Lishchuk

Milla Lishchuk

