

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 65752**

Petitioner:

**STEPHEN R. AND MICHELLE M. CARAGOL,**

v.

Respondent:

**ROUTT COUNTY BOARD OF COMMISSIONERS.**

***AMENDED ORDER***

**THIS MATTER** was heard by the Board of Assessment Appeals on October 29, 2015, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner, Stephen Caragol, appeared *pro se* on behalf of Petitioners. Respondent was represented by Lynaia South, Esq. Petitioners are protesting the 2014 actual value of the subject property.

Subject property is described as follows:

**26025 Vista Valley Court, Steamboat Springs  
Routt County Schedule No. 8166430**

The parties stipulated that the 2014 value of the subject property, prior to being either damaged or destroyed, was \$852,910.

The subject property consists of a 5,079 square foot residence situated on a 35.01-acre lot. The residence includes 5 bedrooms, 4 full baths, and 2 half baths. The property also includes a 1,271 square foot, detached, utility building used as storage and shop.

On March 30, 2014, the property was struck by lightning. Petitioner, Stephen Caragol testified to damage sustained to the home which included but was not limited to: damage to the electrical system, wall and ceiling damage to the main and upper level as well as to the garage. Portions of the roof decking lifted and portions of the gable wall and venting were displaced. Upper level framing, insulation and walls were damaged. The home was deemed unsafe for habitation by EDW Engineering and the total amount of the insurance claim for the damage was \$641,843.81. Mr. Jim Nowak, an accountant and consultant familiar with the property and Ryan Radway, General

Contractor with Zie Builders, both testified to the extent of damage to the property. Petitioners concluded that based on a Memorandum regarding "Suggested Guidelines for Destroyed Versus Damaged" dated September 26, 2013 prepared by JoAnn Groff, Property Tax Administrator, the subject qualified for proration of value for tax year 2014.

Respondent's witness, Mr. Gary Peterson, Routt County Assessor, testified to the status of the property on the assessment date of January 1, 2014. Respondent's Exhibit A included an Appraisal Report that indicated a value of \$860,000 as of June 30, 2012. As noted in the Exhibit and testified to at the hearing, the total value placed on the property has not been the focus of the appeal, as Petitioners' objective was to have the value prorated for tax year 2014. Mr. Peterson agreed that the property was damaged by lightning, and that the damage was correctly described in the City of Steamboat Springs Fire Prevention Services Incident Investigation Report which included a large number of photos. The Assessor also gave consideration to engineering and insurance reports that described the damage. Mr. Peterson noted that the Memorandum prepared by Ms. Groff was in response to flood damage that had occurred in several counties, not lightning strike damage as was in this case. There was no evidence that Petitioners had promptly notified the Assessor of the damage, but that it was in fact discovered by Mr. Peterson when a building permit was pulled in December of 2014.

Petitioners contend that the residence was 75% destroyed and its value for tax purposes should be prorated accordingly for tax year 2014. Respondent contends that the residence was not destroyed, but rather damaged, which does not allow for any proration of value.

The Board sympathizes with Petitioners regarding the dramatic event experienced by the family, who was home at the time of the lightning strikes. However, Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2014.

Statute allows for a proration of a property's valuation whenever any improvement is destroyed or demolished subsequent to the assessment date. Section 39-5-117, C.R.S. provides:

"Whenever any improvements are destroyed or demolished subsequent to the assessment date of any year, it is the duty of the owner thereof or the owner's agent to promptly notify the assessor of such destruction or demolition and the date upon which the same occurred. In all such cases, such improvements shall be valued by the assessor at the proration of its valuation for the full calendar year that the period of time in such year prior to its destruction or demolition bears to the full calendar year. Failure of the owner thereof or of the owner's agent to so notify the assessor prior to the date taxes are levied shall be considered a waiver, and no proportionate valuation by the assessor shall then be required."

This case turns on the definition of the terms "destroyed" and "demolished" as proration is allowed for properties that are destroyed or demolished, but not for those that have been damaged.

If a statute is plain and its meaning is clear it must be interpreted as written. *Casados v. City & County of Denver*, 832 P.2d 1048 (Colo. App. 1992). *Dictionary.com* defines “to destroy” as “to reduce (an object) to useless fragments, a useless form, or remains, as by rending, burning, or dissolving; injure beyond repair or renewal; demolish; ruin; annihilate.” *Merriam-Webster.com* provides a similar meaning: “to cause (something) to end or no longer exist; to cause the destruction of (something); to damage (something) so badly that it cannot be repaired.” *Dictionary.com* defines “to demolish” as: “to destroy or ruin (a building or other structure), especially on purpose; tear down; raze.”

The Board is not convinced that the lightning caused the subject to be “destroyed” or “demolished” as the terms are used in their plain meaning. There was no evidence presented by either party to suggest that the improvement had been either “reduced to useless fragments” or that the lightning caused the subject to “no longer exist.” The Board is convinced that the term “damaged” best describes the condition of the property, as photos showed the residence still standing, and testimony indicated that it had since been repaired. Mr. Radway testified that while some repair was required to the framing, the residence did not have to be framed from the ground up. Although held by insulation in some places, the walls remained standing according to Mr. Radway.

Further, there was no evidence presented by Petitioners that they had promptly notified the Assessor of the incident, thereby waiving their right to a proration of value, even if the property was in, fact, destroyed/demolished by the lightning, which the Board concluded it was not. The Board was convinced that the Assessor first became aware of the damage when a building permit was pulled in late-2014. The property does not qualify for any proration of value for 2014.

## **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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 17th day of November, 2015.

**BOARD OF ASSESSMENT APPEALS**

*Debra Baumbach*

Debra Baumbach

*Sondra W. Mercier*

Sondra Mercier

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

*Milla Lishchuk*

Milla Lishchuk

