

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MICHAEL AND ROSEANN PASLAY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 66882</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 19, 2016, Sondra Mercier and MaryKay Kelley presiding. Petitioners appeared *pro se*. Respondent was represented by Rachel Bender, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**29606 Larkspur Drive, Evergreen, Colorado  
Jefferson County Schedule No. 041008**

The subject is a 2,575 square foot two-story residence with a partial, unfinished walkout basement and a two-car garage. It was built in 2006 on a 0.482 acre site in the Wah Keeney Park Subdivision. The steep terrain is typical for mountain properties, and the site slopes downward to Troublesome Creek. Larkspur Drive is a one-lane, privately maintained dirt road.

Petitioners are requesting an actual value of \$364,290. Respondent assigned an actual value of \$418,350, which is supported by an appraised value of \$460,000.

Petitioners described the subject's private road as being one lane, non-county-maintained, and with difficult emergency access. They felt these issues negatively impacted the subject's marketability and value.

Petitioners discussed the home's proximity to a sewage plant (1/4 mile) and its foul odor. They considered it to negatively impact marketability and value.

Petitioners identified 25% of the subject's location in a FEMA flood plain. This portion of the site is "unusable" and has a negative impact on marketability and the value of the subject.

Petitioners argued that all finished living space should be considered prime living and that Respondent wrongly identified three of their comparable sales' finished lower-level square footage as basement. They referenced a document from the county's web site, which instructed assessors to value "garden level" square footage as prime living space.

Petitioners requested an actual value of \$364,290, the subject's 2014 assigned value. They presented two comparable sales, 3155 Sulky Lane with a sale price of \$340,000 and 3170 Bittersweet Lane with a sale price of \$350,000. Adjustments were made for size, acreage, room count, flood plain, access road, and proximity to a sewage plant. Petitioners argued that the adjusted values for these two sales supported the requested value of \$364,290.

Respondent's witness, Laura L. Burtschi, Licensed Appraiser for the Jefferson County Assessor's Office, presented a Sales Comparison Analysis with four comparable sales ranging in sale price from \$340,000 to \$599,900. Adjustments were made for seller concessions and time, acreage and access, age, size and room count, walkout, fireplace, and patios/decks/sunroom. Adjusted sale prices ranged from \$388,000 to \$615,000. Ms. Burtschi placed greatest weight on Sales One and Three (\$388,000 and \$528,700, respectively) and concluded to a value of \$460,000.

Ms. Burtschi discussed lower-level living space. Assessor policy identifies primary living level as the level with a kitchen. Lower levels are addressed as basements. The subject's lower level was referenced as a basement in the appraisal, and the walkout feature was valued separately. Three of the four sales had walkout basements, requiring no adjustment for this feature.

Ms. Burtschi agreed with Petitioners that their private road carries negative impact because it requires private maintenance, is a one-lane road, and has difficult emergency ingress and egress. This issue was addressed as a "land contribution adjustment" in her appraisal.

Ms. Burtschi, while denied an interior inspection, performed two exterior inspections at which times she noticed no foul smell from the sewage plant. She made no adjustment for the subject's proximity to the sewage plant in her appraisal.

Ms. Burtschi noted that the subject residence did not lie within flood plain boundaries. While a portion of the site was in the flood plain, it was also near the creek, seen by many as a positive feature. She saw no negative influence on marketability or value.

Ms. Burtschi reviewed Petitioners' two comparable sales, noting that they were located in different neighborhoods with different appeal. She considered sales within the subject subdivision to be most comparable.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Both state constitution and statute require use of the market approach to value residential property in the current base year. Adoption of an actual value for a prior tax year cannot and should not take precedence over an analysis of recent sales and current market conditions.

Widely-acceptable appraisal methodology identifies prime living area as space that includes living and dining rooms, kitchen, and primary bedrooms and bathrooms. Construction costs are higher because they typically include exterior finish, higher ceilings, and larger windows than in basement levels. Basements are typically considered secondary living space within the appraisal industry. For these reasons, basements are identified in separate line items on appraisal forms and are adjusted at a lower price per square foot because they carry less value in the marketplace. It should be noted that Realtors commonly include basements in prime living space, especially in mountain communities and especially when they are walkouts. Although this is a marketing tool, basements are not primary living space and should not be valued as such. More importantly, the living area was analyzed and adjusted consistently between the subject and the comparable sales.

Contrary to Petitioners' assertions, the Board was convinced that "garden level" living space, which is partially below grade, is distinct from a walkout space which is, indeed, valued as prime living. Garden level space is most commonly found in split-level homes and bi-level homes with above-grade windows; split-levels often also have basements.

The Board agrees with both parties that walkouts carry value. Respondent appropriately identifies the walkout feature as a separate line item and assigns value to it.

Petitioners' discussion of price per square foot fails to recognize the dynamics of the marketplace. It does not reflect locational differences or site premiums (elevation, solar exposure, view, tree cover, privacy, terrain, and distance from a main road), construction quality, interior features, condition, and so on.

The Board finds Respondent's sales more comparable to the subject. All are located in the subject subdivision, which addresses locational features and similarities in construction quality and appeal. Little is known about the features of Petitioners' two comparable sales' subdivisions and locational differences.

While the Board acknowledges Petitioners' concerns about privacy, their refusal to allow an interior inspection is a significant obstacle for Respondent's appraiser, requiring him/her to make extraordinary assumptions about interior features and physical condition.

**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-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 March, 2016.

**BOARD OF ASSESSMENT APPEALS**

*Sondra W m*

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*MaryKay Kelley*

MaryKay Kelley

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

*Milla Lishchuk*  
Milla Lishchuk

