

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD A. DENNIS AND TINA L. TARBELL,</p> <p>v.</p> <p>Respondent:</p> <p>EL PASO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70691</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 24, 2018, Debra A. Baumbach and MaryKay Kelley presiding. Richard A. Dennis appeared pro se on behalf of Petitioners. Respondent was represented by Steven Klaffky, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**14330 Vessey Circle, Colorado Springs, Colorado
El Paso County Schedule No. 5206000008**

The subject is a 2,016 square-foot bi-level residence with a three-car detached garage. It is located on a 1.29-acre site in the Black Forest neighborhood. In 2013, this area endured the largest and most damaging wildfire in Colorado.

Respondent assigned a value of \$262,000 for tax year 2017, which is supported by an appraised value of \$297,945. Petitioners are requesting a value of \$184,500.

Mr. Dennis described the fire damage to his property. In addition to blackened trees, his detached garage was fully destroyed, the roof was warped, and the siding on the south side was damaged. Repair and replacement was completed prior to the assessment date and includes a new front door.

In testimony and photographs, Mr. Dennis portrayed Vessey Circle and the surrounding area at the five-year mark since the wildfire. Blackened trees remain. Some homeless neighbors still

occupy campers (permitted for two years). Some blackened structures remain in place. Adequate cleanup has not occurred.

Mr. Dennis stated that no comparable sales existed in his immediate area and dismissed Respondent's sales due to their locations in lower fire-damaged areas. He, therefore, concluded that the Market Approach was not appropriate.

Mr. Dennis calculated fair market value with two formulas, the average being his requested value of \$184,500: \$190,923 (2016 assigned value) minus \$28,000 (burn scar damage per BOE) = \$163,000 (rounded); and \$194,902 (2014 assigned value after completion of repairs) plus \$39,054 (value of permits per Petitioners) = \$233,956 minus \$28,000 (burn scar damage per BOE) = \$206,000 (rounded).

Respondent's witness, Kevin D. Crites, Certified Residential Appraiser with the El Paso County Assessor's Office, discussed the greater Black Forest neighborhood and the burn area. Referencing the aerial map dated 2016 (page 7 of Exhibit 1), which depicts significant impact to the south of the subject, he described recovering landscape and green shrubbery. He also described Black Forest as diverse with evidence of trash and trailers throughout. He testified that the surroundings of his comparable sales were similar to that of the subject and, therefore, made no adjustments for "location".

Mr. Crites presented a Sales Comparison Analysis with four comparable sales. He testified that all were bi-level elevations in other comparable Black Forest locations. Mr. Crites made adjustments for market change, acreage, age, room count, fireplaces, and outbuildings.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

"The actual value of residential real property shall be determined solely by consideration of the market approach to appraisal. Section 39-1-103(5)(a), C.R.S. Despite the scarcity of comparable sales in the subject's immediate area, a market approach is mandated per statute and requires a wider search and adjustments for differences. Petitioners' calculations, based on assigned values, burn scar estimate, and repair permits are not substitutes for a market approach.

The Board finds Mr. Dennis to be a credible witness. His testimony and photographs of his immediate area (blackened trees, trash, campers and trailers) are persuasive, and the Board finds that Respondent's comparable sales should have carried adjustments for superior appeal and marketability. However, the Board was provided no adjustments other than the \$28,000 quoted by the BOE per Mr. Dennis. An adjustment of \$28,000 applied to Respondent's appraised value would not render a value conclusion lower than the assigned value (\$262,000).

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 11th day of May, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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