

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

Docket No.: 75458

Petitioner:

COLLINS COLORADO ESCAPES LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 29, 2019, Diane M. DeVries and Samuel Forsyth presiding. Petitioner was represented by Mills H. Ford, Certified General Appraiser. Respondent was represented by Rebecca P. Klymkowsky, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2017.

EXHIBITS AND WITNESSES

Petitioner's Exhibit 1 was admitted into evidence. Respondent's Exhibit A was admitted into evidence. Mr. Mills H. Ford was admitted as Petitioner's expert. Mr. Ralph Simon was admitted as Respondent's expert.

PROPERTY DESCRIPTION

**25580 Sunset Lane
Evergreen, Colorado 80439
Jefferson County Schedule No.: 300440560**

The subject is a custom single family detached residential property built in 2000, consisting of approximately 6,655 square feet above grade and 1,742 square foot basement, with a total square footage of 8,223. There are six bedrooms and eight baths. The subject has two 2-car garages, heated, totaling 1,797 square feet. The home sits on 31.299 acres of land with panoramic views. The home is custom framed with multiple amenities, including central and forced air as well as radiant heat,

skylights, a private loft area, hot tub, media room, full wet bar, climate-controlled wine room, bath/steam, library, a separate care-taker's kitchen, etc.

Respondent's assigned value for the subject property for tax year 2017 is \$1,734,133. Respondent presented an appraisal of the subject property reflecting the subject's 2017 value of \$2,387,200. Petitioner's requested value is \$1,200,000 based on Petitioner's appraisal presented at the hearing.

PETITIONER'S PRESENTATION

Mr. Phillip A. Collins, Member, Collins Colorado Escapes, LLC, testified as Petitioner's first witness. Mr. Collins described the subject home as a custom home that took three years to build. According to Mr. Collins, the home is clouded by stigma. He stated that the home has been listed for sale since February of 2009 until Petitioner's eventual purchase in December of 2014 for \$1,124,500. Mr. Collins stated that although the property was bank-owned at the time of sale, the transaction was nevertheless an arms' length as the property was advertised on the MLS during the listing period. The property is currently being used as a short-term rental.

Mr. Collins stated that every system in the house is specialized which requires specialized up-keep and costly repairs. According to Mr. Collins, the shifts in the rocks that support the subject's foundation had caused the cracking in the walls and damages to three windows. Mr. Collins testified to various repairs and improvements on the subject property since Petitioner's purchase of the subject in 2014. To date, Petitioner spent \$190,000 on repairs. However, as of January 1, 2017, approximately 85% of the repairs were completed.

As the second witness, Petitioner presented the testimony of Mr. Mills H. Ford, Certified General Appraiser, AVPros, LLC. Mr. Ford presented an appraisal report and provided description of the subject property. According to Mr. Ford, subject's location on a cliff makes the property undesirable for perspective buyers and 31 acres of the property are not usable as only about .3 acre is buildable. Mr. Ford also testified to physical deficiencies on the property at the time of the sale of the subject in 2014, including damaged plumbing and pipes, and shifting foundation causing structural damages. Mr. Ford testified that amount that Petitioner spent on repairing the subject, which was approximately \$400,000, does not translate to an increase in value.

Mr. Ford presented a sales comparison approach for the subject's value. Due to specialized nature of the subject, Mr. Ford stated that comparables were difficult to find. As the 2014 sale of the subject was a base period sale, Mr. Ford included that sale as his Comparable Sale One. Mr. Ford assigned "average" quality to the subject. Adjusted values of the five comparables ranged from \$1,200,000 to \$1,516,351. Mr. Ford arrived to the subject's 2017 value of \$1,200,000 based on the sales comparable approach. Mr. Ford argued that the 2014 sale of the subject was not a foreclosure as the property was listed on MLS and the bank that sold the subject was firm on the sale price.

RESPONDENT'S PRESENTATION

Respondent presented the testimony of Mr. Ralph Vincent Simon, Certified Residential

Appraiser with the Jefferson County Assessor's Office. Mr. Simon inspected the exterior of the subject and prepared an appraisal of the subject property. Mr. Simon testified that, in his opinion, the subject did not suffer from the stigma that Mr. Collins described. Mr. Simon testified that he was not aware that the subject required any substantial repairs and questioned Petitioner's assertion that all of the pipes in the home were damaged at the time when Petitioner purchased the subject. According to Mr. Simon, the repairs that Petitioner conducted on the subject contribute to the subject's value.

Mr. Simon presented a sales comparison approach consisting of four comparable sales. According to Mr. Simon, customized nature of the subject presented a challenge in the appropriate comparable selection. Mr. Simon declined to include the 2014 sale of the subject as a comparable sale stating that it was a non-qualified, bank-owned transaction. According to Mr. Simon, even though the property was listed on MLS, it was still a distressed sale because it was bank-owned. Mr. Simon assigned "very good" quality to the subject. The adjusted sale prices of Respondent's comparable sales ranged from \$1,606,500 to \$3,256,500. Mr. Simon concluded to the subject's 2017 value of \$1,734,133.

BURDEN OF PROOF

In a proceeding before the Board, the taxpayer has the burden of proof to establish, by a preponderance of evidence, that the assessor's valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Preponderance of the evidence refers to the evidence that is most convincing and satisfying in the controversy between the parties. *Batterberry v. Douglas Cty. Bd. of Equalization*, 16CA1490 (Colo. App. 2017). The evaluation of the credibility of the witnesses and of the weight, probative value, and sufficiency of the evidence is solely within the fact-finding province of the BAA. *Bradford v. Chaffee Cty. Bd. of Equalization*, 12CA0927 (Colo. App. 2013).

THE BOARD'S FINDINGS

Petitioner's analysis relies primarily on the base year sale of the subject property. At the time of sale, subject property was a Real Estate Owned Property ("REO"), owned by the lender. REO sales are not subject to automatic disqualification, *see e.g.*, Assessor's Reference Library, (ARL), Vol. III, Ch. 3, pg. 3.17 ("The lack of an immediate physical inspection to confirm the condition of the property may disqualify the sale, but REO sales are initially to be considered arm's-length transactions"). However, the Board finds that under the facts presented, consideration of the REO sale of the subject is inappropriate. The Board's finding is premised primarily on the fact that the REO sales were not prevalent during the applicable data-gathering period. Moreover, substantial amount of necessary repairs that the subject underwent following its acquisition by Petitioner also weigh against inclusion of the subject REO sale in valuation analysis. ARL, Vol. III, Ch. 3, pg. 3.17 ("Unless an inspection is made or it can be confirmed that the expenditures were minimal, *i.e.* only minor repairs are necessary, a resale of a foreclosed property should not be used to establish market value.")

The Board further finds that Petitioner inaccurately defined the quality of the subject property and its views. The first and key step in the appraisal process is to accurately define the subject

property. Accurately defined subject property leads directly to the selection of the appropriate comparable properties. An inaccurately defined subject will lead to the selection of inaccurate comparables. Petitioner's expert determined that the subject property was average quality. Three of the comparables selected by Petitioner were average quality, two of the comparables were good quality. The average quality comparables were not adjusted upward and the good quality comparables were inappropriately adjusted downward. The evidence presented in testimony and the Exhibits reflected that the subject property is custom quality.

Evidence was also clear that the subject property has very good views. Petitioner's adjustment grid made no mention of the view nor was any adjustment made for the view. The Board finds that Respondent's description of quality and analysis of the view amenity lead to more appropriate comparable selection and adjustments that were more accurate than Petitioner's.

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

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 26th day of November, 2019.

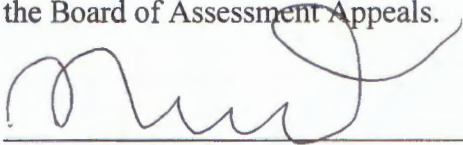
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



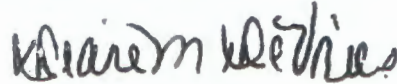
Samuel M. Forsyth

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



Milla Lishchuk

Concurring Board Member:



Diane M. DeVries,
*concurring without modification pursuant to
Section 39-2-127(2), C.R.S.*

