

<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>PAT HUDSPETH,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Pat Hudspeth Address: 11834 Stallion Drive Pine, Colorado 80470 Phone Number: (303) 838-1432 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 37966</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 3, 2001, Debra A. Baumbach and Karen E. Hart presiding. Petitioner, Pat Hudspeth, appeared pro se via teleconference call. Respondent was represented by, Jennifer Pielsticker, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**NW1/4 SEC 30 TWN 7 RNG 71 KEY 19  
(Jefferson County Schedule No. 176357)**

Petitioner is protesting the 2000 actual value of the subject property, a 45-acre tract of land that was 100% burned in a forest fire. The property is located at 668 Holmes Gulch Way in the Pine Valley area.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property was 100% burnt by a forest fire, and now has a substantially lower value. Her property is valued higher than neighboring tracts that had lesser burn areas.

### **Respondent:**

Respondent contends that the subject property was reduced in value at the same rate as other properties with the same degree of forest burn.

## **FINDINGS OF FACT:**

1. Petitioner presented the appeal on her own behalf via teleconference call.
2. Petitioner presented an indicated value of \$1,500.00 for the subject property, based on the assessor's value of a neighboring property.
3. Ms. Hudspeth testified that there had been a forest fire in her area that completely burned her property. The subject property terrain is steep and rocky, and the aftermath of the fire has left her property subject to water erosion. Attempts to revegetate the property have been met with limited success. The access road to her property is severely deteriorated with washout areas as large as 15 feet wide and 15 feet deep. Prior to the fire, the 360-degree panoramic view was a very big selling point.
4. Ms. Hudspeth testified that she talked to real estate agents and looked at MetroList, but could not find any sales of similar forest fire burned properties that sold within the appropriate time frame. She believes that the lack of sales speaks for the loss of value caused by the fire.
5. Ms. Hudspeth testified that she had researched 3 comparable properties that had lesser degrees of burned area. According to the Assessor's web site, all the parcels were valued at a lesser rate than the subject property. The assessments are not equal.
6. Ms. Hudspeth testified that she had researched properties in the Buffalo Creek fire area and found that although it had been 5 years since that fire, the area has still not experienced any new tree growth. The subject property had 40 to 50 foot tall trees, with many slow growing juniper trees that were over 50 years old. It will not be feasible to re-tree their property due to watering issues and the fact that even the fastest growing trees will take at least 10 years to grow 10 feet tall.

7. Upon questioning from the Board, Ms. Hudspeth testified that her property has no creek water. It does have well water and electricity. They live in a trailer on the site; there is no septic hook up. There is still no vegetation regeneration. She believe the market value of the property would be something less than \$50,000.00, based on the recent sale of a neighboring property.

8. Petitioner is requesting a 2000 actual value of \$1,500.00 for the subject property, based on a neighboring property's assessed value of \$440.00.

9. Respondent's witness, Mr. Philip T. Gutherless, a Registered Appraiser with the Jefferson County Assessor's Office, presented an indicated market value for the subject property of \$310,000.00 prior to the fire, and \$181,322.00 after the fire, based on a prorated value.

10. Mr. Gutherless testified that the subject property is located at 668 Holmes Gulch Way, on the Park/Jefferson County line. It is 45 acres in size and has poor access. There was a 945 square foot house on the property as of January 1, 2000. The most notable feature of the property prior to the fire was the panoramic view.

11. Mr. Gutherless testified that there was a lack of sales to establish a market value for burned property. The level of value date was June 30, 1998, and there were no sales of burned properties as of that date as there had been no fire; the fire occurred in June of 2000. The subject property was assigned full market value for the first 5 months of 2000. As of June 1, 2000, the house value was removed completely and the land value was reduced by 50%. All of the properties in the forest fire burn area were reduced according to their individual percentages of burned area.

12. Respondent's witness presented an indicated full year value of \$310,000.00 for the subject property based on the market approach.

13. Respondent's witness presented 3 comparable sales ranging in sales price from \$240,000.00 to \$333,500.00 and in size from 1026 to 1604 square feet. After adjustments were made, the sales ranged from \$294,900.00 to \$344,100.00.

14. Mr. Gutherless described the comparable sales and testified regarding the adjustments made to the sales. They were adjusted for physical differences in size, view, access, age, additional improvements, and other amenities. The sales were also adjusted for time.

15. Mr. Gutherless testified that values were reduced as of the date of the fire, and residential properties were kept at the residential rate, even though the houses were destroyed. The values were assigned as follows:

	<u>Full Year Value prior to fire</u>	<u>Prorated value after the fire</u>
Land Value	\$192,390.00	\$ 80,170.00 Jan - May \$ 56,110.00 Jun - Dec
Improvement Value	\$108,100.00	\$ 45,042.00 Jan - May 0.00 Jun - Dec
Total Value	<u>\$300,490.00</u>	<u>\$181,322.00</u>

16. Mr. Gutherless testified that he also researched vacant land sales. They did not influence the value, but were used as a test for the adjusted land value after reduction for the fire damage.

17. Mr. Gutherless testified that the lower valued property referred to by Petitioner consists of a property that was classified as agriculture as it is enrolled in the forest preservation plan, and also has no home located on it, unlike the subject property.

18. Mr. Gutherless testified that he had traveled over the subject property access road in March and it has improved in condition.

19. Under cross-examination, Mr. Gutherless admitted that the 50% reduction due to the forest fire was an estimate without any supporting market data. The reduction was determined by the Assessor and other staff members, and was consistent with the Buffalo Creek fire reduction. He admitted that the photos may be misleading due to the printing colors; there is no grass growing on the subject property.

20. Upon questioning by the Board, Mr. Gutherless testified that the land value reduction was not a statutory requirement. Other properties were reduced at varying levels depending upon what the improvement value was prior to the fire, and the percentage of burned area. All land that was 100% burned was reduced at an equal rate of 50% of value prior to the fire.

21. In recross-examination, Mr. Gutherless testified that the neighboring property referred to by Petitioner was valued at a lesser rate post fire than the subject property because it had no improvements. The prorated value was less, as it was based on a reduced land value only. Petitioner's value was a proration of both land and improvements.

22. Respondent assigned an actual value of \$181,322.00 to the subject property for tax year 2000, with \$136,280.00 allocated to land and \$45,042.00 allocated to improvements.

**CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2000.

2. The Board can certainly understand Petitioner's distress at the loss of the spectacular view and tree cover of the subject property due to a forest fire, through no fault of their own. The Board agrees with Petitioner that as a result of the fire and the steep rocky terrain of the subject property, there will be erosion problems for some years to come, and revegetation of the subject property will be difficult. However, the panoramic view remains, although the mountain terrain must now be the main attraction rather than trees. The Board, therefore, agrees with Respondent that a substantial value for the subject property still remains.

3. Neither party presented market information in support of value reductions due to the forest fire as none was available; the base year date occurring prior to the date of the fire. Respondent's witness testified that all of the land values located within the burned area were reduced equally, based on the degree of burn, even though the reduction was not required by statute. The Board supports the reductions made by Respondent as they were fairly and equally applied to all affected properties and there is no evidence to support any further reduction for the subject property.

**ORDER:**

The petition is denied.

**APPEAL:**

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

**DATED and MAILED** this 23<sup>d</sup> day, of August, 2001.

This decision was put on the record

AUG 23 2001

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach

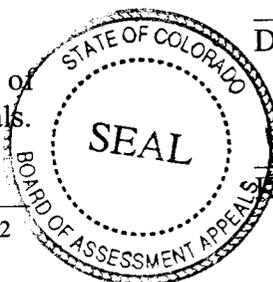
Debra A. Baumbach

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

Diane Von Dollen

Diane Von Dollen

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Karen E Hart

Karen E. Hart