

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>RICKY R. AND BRENDA N. ATWELL,</p> <p>v.</p> <p>Respondent:</p> <p>ELBERT COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Ricky R. and Brenda N. Atwell Address: P.O. Box 427 Simla, CO 80835 Phone Number: (719) 541-2269 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38233</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 28, 2002, Debra A. Baumbach and Steffen A. Brown presiding. Petitioners appeared pro se. Respondent was represented by John V. Egan III, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

(Elbert County Schedule No. 00351-07-002/113926)

(Elbert County Schedule No. 00351-07-003/113927)

Petitioners are protesting the 2001 actual value of the subject properties, a 5.32 acre parcel of vacant land (Schedule No. 11326), and a 7.66 acre parcel of land including a ranch-style home with 1,836 square feet of living area, three bedrooms and two baths, a full unfinished basement, an 864 square foot garage, and a 5,000 square foot light industrial building of steel frame construction and concrete flooring (Schedule No. 11327).

ISSUES:

Petitioners:

Petitioners contend that the 5.32 acre parcel of vacant land and the 7.66 acre parcel with improvements are overvalued, and the assessor did not use the best comparable sales.

Respondent:

Respondent contends that the subject properties have been correctly valued based on comparable market data.

FINDINGS OF FACT:

1. The Board agreed to consolidate two separate schedule numbers under Docket No. 38233.

2. Petitioner, Mrs. Brenda N. Atwell, presented the appeal on behalf of Petitioners. Based on the market approach, the Petitioners presented an indicated value for the subject properties as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
113926	\$ 10,704.00
113927	\$202,373.00

3. Petitioners presented three comparable sales for Schedule No. 113926 ranging in sales price from \$20,000.00 to \$30,870.00 and in size from 14.15 acres to 18.78 acres. After adjustments were made, the sales ranged from \$28,465.00 to \$33,768.00. Petitioners also presented five comparable sales for Schedule No. 113927 ranging in sales price from \$68,000.00 to \$179,950.00 and in size from 1,628 to 1,960 square feet. After adjustments were made, the sales ranged from \$155,494.00 to \$255,057.00

4. Mrs. Atwell testified that Schedule No. 113926 is located within the boundaries of Simla, Colorado, it is unplatted, undeveloped, and it has no city water or sewer services. To obtain utility services would be costly based on written estimates shown on pages 12 and 13 of Petitioners' Exhibit A.

5. Mrs. Atwell testified that since there were no city services to either of their parcels, they would be more comparable to rural properties. She testified that since they were in a rural setting the subject parcels would best compare to three comparable vacant land sales located in adjoining El Paso County; all of which are located within seven miles of the subject properties.

6. Mrs. Atwell described the subject sites, Schedule Nos. 113926 and 113927, as being originally purchased as one 12.98 acre parcel even though it was divided by Highway 24.

7. Mrs. Atwell testified regarding the three comparable land sales she used in valuing the 5.32 acre parcel, Schedule No. 113926, and the 7.66 acre parcel, Schedule No. 113927, which included improvements. She testified that Comparable Sale 1 was the best sale since it borders the Elbert and El Paso County lines at its location in Ramah, Colorado, and consists of two adjoining parcels purchased by one person. This sale was similar to the subject, since one of these parcels (6.24 acres) lies inside the town boundaries and has city services available while the other parcel (7.91 acres) does not. Mrs. Atwell also testified that Comparable Sale 2 consisted of two parcels purchased by one person.

8. Mrs. Atwell testified that the adjusted sales price per acre was \$2,012.00 for Comparable Sale 1, \$1,798.00 for Comparable Sale 2, and \$1,394.00 for Comparable Sale 3. She testified that Comparable Sale 1 was the most similar to the subject. A value of \$2,012.00 per acre should be used in valuing the land for both their parcels.

9. Mrs. Atwell testified that the five comparable sales found in Part 2 of Petitioners' Exhibit A used to value the land with improvements for Schedule No. 113927 were taken directly from the sales supplied by the Respondent. She placed most weight on Comparable Sale 2 since it had the fewest adjustments.

10. Under cross-examination, Mrs. Atwell testified that Schedule No. 113927 was "stick" built. She was not aware that Comparable Sale 2 was a mobile home. Mrs. Atwell testified to the significance of the unplatted and undeveloped land value in Schedule No. 113926 since she could not get city water and sewer and would have to apply to the Elbert County Building Department for a septic permit. Mrs. Atwell admitted there was a non-working well on Schedule No. 113926, which she described as a 480-foot commercial well; there is no electricity to it. Mrs. Atwell testified that when the property was purchased it was considered one piece of property but admitted each parcel has a separate legal description.

11. Upon questioning from the Board, Mrs. Atwell testified that a time adjustment for the vacant parcel, Schedule No. 113926, was obtained from the El Paso County Assessor. She adjusted \$3,000.00 for the value of the non-working well. Adjustments for the land and improvements on Schedule No. 113927 were taken from a printout given to her by the Elbert County Assessor.

12. Under recross-examination, Mrs. Atwell testified that no adjustment was made for electricity since it was available to a nearby utility pole.

13. Petitioner is requesting a 2001 actual value for the subject properties as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
113926	\$ 7,980.00
113927	\$216,241.00

14. Respondent's witness, Mr. Robert L. Harper, a Registered Appraiser with the Elbert County Assessor's Office, presented indicated values for the subject properties, based on the market approach, as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
113926	\$ 42,000.00
113927	\$285,732.00

15. Respondent's witness presented three vacant land comparable sales for Schedule No. 113926 ranging in sales price from \$23,000.00 to \$37,500.00 and in size from 5 acres to 5.16 acres. After adjustments were made, the sales ranged from \$41,362.00 to \$42,610.00. Respondent's witness also presented three improved comparable sales for Schedule No. 113927 ranging in sales price from \$128,000.00 to \$249,250.00 and in size from 1,372 to 1,792 square feet. After adjustments were made, sales ranged from \$228,195.00 to \$283,605.00.

16. Mr. Harper testified that Schedule No. 113926 is located within the Town of Simla, Colorado. He testified that 72 sales that occurred within Elbert County were considered but he did not use them due to their location and size; sales of 5-acre parcels were non-existent near the subject. He therefore looked for sales located in El Paso County where sale properties were more comparable to the subject.

17. Mr. Harper testified to the vacant land sales adjustments taking into consideration the fact that the subject has a non-working well on the property. He testified that Comparable Sale 2 was given the most weight due to its location and it had the fewest adjustments.

18. Mr. Harper testified to the improved property Schedule No. 113927, describing it as a residential dwelling with 1,836 square feet of living area with three bedrooms and two full baths, a full unfinished basement, and an 864 square foot attached garage. In addition, there is a 5,000 square foot light industrial steel frame building with a concrete floor, 1,083 square feet of which is heated area.

19. Mr. Harper testified to an error on page 14 of Respondent's Exhibit 1 Schedule No. 113927, which includes sales used in the market approach and asked that it be replaced by Respondent's Exhibit 2. Mr. Harper testified that Comparable Sale 1 was located in the Town of Simla, like the subject, Comparable Sale 2 is located in Elbert County on a similar size parcel in an area known as Academy East, and Comparable Sale 3 was located slightly east of Simla, which he considered the most comparable to the subject property since it has the least number of adjustments.

20. Mr. Harper testified that there was no relevance of city water and sewer at the subject property, Schedule No. 113926, since there was already a well on the property and a septic system could be available.

21. Mr. Harper testified to Petitioners' comparable sales for the improved property, Schedule No. 113927, describing Comparable Sales 1, 2, 3 and 4 as being manufactured or mobile homes and Comparable Sale 5 was a site built home. He testified that most of the Petitioners' adjustments were acceptable except for the land value.

22. Mr. Harper testified that since there are two separate parcels they should be looked at separately. He would not have considered Petitioners' land sales since they were much larger in size, were multiple parcel sales that may be discounted, and they were not a true indicator of value.

23. In cross-examination, Mr. Harper testified that he had not used any of the 72 vacant land sales in Elbert County due to their proximity and size in comparison to the subject. He clarified that there are two economic areas in Elbert County, which are then broken down into neighborhoods within each area. Time adjustments from Elbert County and El Paso County are not the same.

24. In redirect examination, Mr. Harper testified that he had taken into consideration adjustments necessary for economic and neighborhood areas, as well as those properties in El Paso County

25. Upon questioning from the Board, Mr. Harper testified that he did consider the 72 vacant land sales in Elbert County; but none were found to be in close proximity to the subject; within 22 to 25 miles of the subject.

26. Respondent assigned an actual value to the subject properties for tax year 2001 as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
113926	\$ 33,750.00
113927	\$238,483.00

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax year 2001.

2. Petitioners presented three vacant land sales to determine a price per acre in order to value their acreage. The Board reviewed Petitioners' sales and agrees that they are similar in total acreage to the subject parcels. They are also closer in proximity to the subject than Respondent's. However, the Board agrees with the Respondent that the sales are large parcels, and, in the case of Comparable Sales 1 and 2, were multiple parcels where the purchase price may have been discounted, making them less comparable to the subject properties. In addition, the Board notes the subject parcels have separate schedule numbers and separate legal descriptions and may be sold separately. Therefore, the Respondent's sales were given most weight since they are more similar in size to the subject parcels.

3. The Board agrees with both Petitioners and Respondent that even though sales of vacant land were available in Elbert County, they would not be as comparable as sales used from El Paso County due to their size and distance from the subject.

4. The Board was not persuaded by Petitioners' testimony that the cost to install water and sewer would be high for Schedule No. 113926 due to a lack of city services. There is a non-working drilled well on the property with electricity nearby and a permit for a septic system may be obtained.

5. The Board did not hear much testimony from either the Petitioners or the Respondent about the improvement value. The Petitioner presented five comparable sales and testified to using adjustments given them by Respondent. The Board could give little weight to these sales, which were not verified. The Petitioners were unaware whether the sales were manufactured or mobile homes, which may have required an adjustment for quality of construction. The Petitioners failed to include or prove a time adjustment and used land adjustments based on parcels that the Board found not to be comparable to the subject.

6. The Board finds Respondent's sales for both the vacant land and the improved parcel most compelling. The assigned value has taken into consideration factors affecting the overall valuation and is supported by market sales.

7. After careful consideration of all the presented evidence and testimony, the Board affirms the Respondent's assigned values as follows:

Schedule Number	Actual Value
113926	\$ 33,750.00
113927	\$238,483.00

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 8th day of May, 2002.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Steffen A. Brown
Steffen A. Brown

This decision was put on the record

MAY 07 2002

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

