

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALLEN C. GOULD,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Allen C. Gould Address: 1341 South Andes Street Aurora, Colorado 80017-4422 Phone Number: (303) 312-6406 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38513</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 23, 2002, with Karen E. Hart and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Linda C. Michow, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**T11 R78 S20 IMPS ONLY
(Park County Schedule No. R0007873)**

Petitioner is protesting the 2001 actual value of the subject property, which consists of a cabin located on Park County Road 22 (Weston Pass Road). The neighborhood has no winter maintenance by the county and is known as the Weston Pass Summer Home Group. The cabin was built in 1919 and has 781 square feet with two rooms and no indoor plumbing. The cabin is located on federal land under a special-use permit from the Forest Service, with only the improvements taxed. The subject dwelling has access for only four months in the year.

ISSUES:

Petitioner:

Petitioner contends that due to the absence of utilities, remote access, and possibility that the Forest Service lease may not be renewed, the valuation of the subject property is too high.

Respondent:

Respondent contends that Park County has accurately valued the Petitioner's cabin by the market approach. Due to the uniqueness of the cabins on Forest Service land, other marketing areas were considered in Chaffee, Teller and Clear Creek Counties with similar benefits and leases as the subject.

FINDINGS OF FACT:

1. Mr. Gould, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$23,430.00 for the subject property.
3. Petitioner presented no comparable sales.
4. The Petitioner testified that the Respondent misrepresented the Petitioner's cabin as being built in 1935; whereas, the cabin was built in 1919 by his Grandfather.
5. The Petitioner testified that he has personally visited the comparable sales that were used in the Respondent's appraisal report.
6. Mr. Gould testified that he has made no improvements to his property in the past year.
7. The witness presented inconsistencies in the properties within his neighborhood and showed a disparity in their assessed values.
8. The Chaffee County sales comparisons are located at 8,000 feet above sea level and have indoor plumbing, electricity, and are located on maintained roads; whereas, the Petitioner testified that his property is located at 10,000 feet, has no plumbing or electric service, and the road is not winter maintained. The Petitioner believes the comparable sales from Teller County are not comparable to the Petitioner's property.
9. The ability to access the cabin should be utilized in the market approach as presented by the Petitioner. He felt all of the comparable properties were more accessible than his and the Respondent did not make any adjustment for access in their report.

10. The special-use permit with the Forest Service will expire in 2008. The Petitioner testified that his contract indicates that all improvements must be removed if the lease is not renewed, and this would affect any future sale price.

11. The Petitioner testified that no Weston Pass cabins have sold recently because they are unique. He does not believe he could sell his cabin for \$41,000.00.

12. Under cross-examination, Mr. Gould testified that being in a remote location could be desirable. He understands the Park County Assessor's Office assigned a 30 percent adjustment to the comparable sales to compensate for the lack of utilities for his property, but he does not know if that is a valid adjustment.

13. Mr. Gould testified during cross-examination that he understands that the Chaffee County cabin most similar to the subject property had a value of \$81.83 per square foot based on its sale price, while his property is being valued at \$52.50 per square foot.

14. The Petitioner testified under cross-examination that the Forest Service can give the lessee of special use permits similar to his a 10-year notice if they choose not to renew the current 20 year lease. He believes this will be given to him in 2008. The Forest Service can revoke a lease for any reason and must pay the lessee for the cost of relocation. Mr. Gould believes this should have an effect on the valuation of his property.

15. Petitioner is requesting a 2001 actual value of \$23,430.00 for the subject property.

16. Respondent's witness, Ms. Kristy M. Gould, a Licensed Appraiser with the Park County Assessor's Office, presented an indicated value of \$41,700.00 for the subject property based on the market approach. Ms. Gould is not related to Petitioner.

17. The witness presented the Weston Pass Summer Home Group as a group of cabins located 17 miles from Fairplay off a maintained road, although it has no winter maintenance. A creek runs through the front of each site in the neighborhood. The area is remote and the cabins are unique with no utilities. Most of the dwellings were built between 1919 and 1950, and all but one dwelling is of log construction. Mr. Gould has an entrance into the neighborhood that is separate from the other cabins.

18. Ms. Gould testified that she reviewed the Petitioner's lease, which indicated the owners of the cabins have exclusive use of the area, which is locked and gated. It was a challenge to find like sales within the 18-month base year time period. No sales within Park County were found, so she expanded the time frame up to five years and found three sales near Bailey with similar cabins on Forest Service land. She contacted other counties for similar sales within the 18-month base year time period. Thirteen sales were submitted from Chaffee County, Teller County, and Clear Creek County. All of the dwellings were seasonal, were not permanent residences, and had similar 20-year leases. Summit County did not respond to her request.

19. Respondent's witness presented 13 comparable sales ranging in sales price from \$26,000.00 to \$100,000.00 and in size from 300 to 1,726 square feet. No adjustments were made for differences in age, quality, time or condition due to a lack of supporting evidence for the comparable sales. Each cabin was adjusted by 30 percent to account for no electrical service or phone.

20. The witness testified that she did not physically visit each sale but discussed the sales with the Assessor's Office for the respective counties to get the information on each cabin.

21. The Respondent's witness presented the comparable sale from Clear Creek County as the most similar to the subject property with limited access, remote location, and no utilities. This property was located at 872 Hefferman Gulch and sold for \$46,000.00 in November 1998, which is prior to the 18-month base year time period. She felt she had to use a five-year time period since there were no other similar sales with similar leases as the subject property within the base period.

22. Ms. Gould testified that she made a 30 percent adjustment to the comparable sales for a lack of utilities. The utilities are typically attached to the land, but the valuations for the comparable sales do not include land, so it was applied to the cabins.

23. The witness testified that the lease for the subject property indicates a restriction as a seasonal home. The Forest Service could revoke the lease if the cabin is used as a permanent residence.

24. The witness presented a valuation of \$75.00 per square foot to each cabin in the Weston Pass Cabin Group and then deducted 30 percent for a lack of utilities.

25. Respondent assigned an actual value of \$41,700.00 to the subject property for tax year 2001.

26. Under cross-examination, the witness presented additional clarification to Mr. Gould, the Petitioner, of the 30 percent reduction for lack of utilities and how it was determined by the Assessor's Office.

27. The witness testified that no location adjustments were made to the comparable sales for limited access since no statistical adjustment could be determined.

CONCLUSIONS:

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

2. There was a lack of sales located in Park County and on Forest Service land. Therefore, Respondent properly gathered sales of similar properties from other counties. The Respondent presented a well-documented selection of comparable sales that adequately represents the subject property.

3. The Board agrees that the cabin located at 872 Hefferman Gulch in Clear Creek County was the most compelling sale. This sale had a remote access and a lack of utility services, similar to the subject property. The sales price was \$83.33 per square foot and the Board notes that Petitioner's value is assigned at a rate of \$75.00 per square foot, before an additional deduction for a lack of utility services. Respondent's total value, including an outbuilding, calculates to \$53.39 per square foot, a much lower value than that indicated by the Clear Creek County comparable sale. The Board was not convinced that a location adjustment was warranted for the subject property.

4. Furthermore, the Petitioner did not convince the Board that his Forest Service lease would be terminated without a ten-year notification, based on the copy of a typical lease that was provided the Board. The Board was convinced by Respondent's testimony that the comparable sales are affected by the same notification clauses, and that the sales prices of the comparable properties reflect the uncertainty of any future lease renewal.

5. Respondent's assigned value of \$41,700.00 is affirmed.

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 1st day of March, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E. Hart
Karen E. Hart

Judee Nuechter
Judee Nuechter

This decision was put on the record

FEB 28 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

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