

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>SUMMIT INVESTMENTS INC. &amp; BRIALI LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GRAND COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jeffrey Kirkendall, Agent Address: 5031 South Ulster Street, Suite 420 Denver, CO 80237 Phone Number: (303) 290-9001 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 39099</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 31, 2002, Debra A. Baumbach and Steffen A. Brown presiding. Petitioners were represented by Jeffrey Kirkendall, Agent. Respondent was represented by Anthony J. DiCola Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**TRACTS A, B, D, E, F, G, H, J, K, L SUMMIT AT WINTER PARK RANCH SUBDIVISION  
(Grand County Schedule No. R044630, R044610, R044670, R044680, R044600, R044620, R044640, R044650, R044660, R044690)**

Petitioners are protesting the 2001 actual value of ten vacant parcels of land, ranging in size from .919 acres to 6.494 acres in the Summit at Winter Park Ranch Subdivision.

## **ISSUES:**

### **Petitioners:**

Petitioners' agent contends that the ten parcels in question are overvalued.

### **Respondent:**

Respondent, after explaining that some figures set by the Board of Equalization have been modified, contends that the parcels, through market comparable sales, are correctly valued.

## **FINDINGS OF FACT:**

1. Mr. Jeffrey Kirkendall, Agent, appeared as a witness and presented the appeal on behalf of Petitioners.

2. Based on the market approach, Petitioners presented an indicated value of \$3,000,000.00 total for the ten vacant land parcels.

3. Petitioner presented six comparable sales ranging in sales price from \$100,000.00 to \$1,022,298.00 and in size from 0.87 acres to 3.205 acres. There were no adjustments made to any of the sales.

3. Mr. Kirkendall testified that the subject consists of ten vacant multi-family tracts totaling 35 acres. The tracts were listed on the market for many years and sold on April 15, 1999 with a closing date in February 2000.

4. Mr. Kirkendall testified the Respondent did not consider the sale of the subject in the valuation. It was considered to be a large sale and should be discounted.

5. Mr. Kirkendall testified regarding the sales used by the Respondent. Sale 1 was not considered because it had a very high value and not comparable to the subject. Sale 2 has superior views and is improved with a lodge. Sale 3 and 4 also have superior views and are adjacent to the Rendezvous subdivision, a planned development with homesites marketed up to \$600,000.00.

6. Mr. Kirkendall testified there were two additional sales not considered by the county which were closer in proximity and sold for an average price of \$100,000.00 to \$108,000.00 per acre.

7. Mr. Kirkendall testified that the assessor's office provided five additional sales that he does not consider to be comparable. All of the sales have superior views with improvements. The sites are larger and there are zoning and locational differences.

8. Mr. Kirkendall testified that the Respondent did not consider the usability of the subject sites. They were turned down for multi-family sewer tap requests, and the properties could not be developed due to a moratorium.

9. Mr. Kirkendall testified that the lots were valued at \$150,000.00 per acre for parcels containing one acre or less and \$115,000.00 per acre for parcels greater than one acre. The parcels containing larger land area will accommodate more development than the small land area.

10. Under cross-examination, Mr. Kirkendall testified he did not have an ownership interest in the property, but hoped to make money when the properties were developed. Mr. Kirkendall testified that all of the tracts could be sold separately.

11. Upon questions from the Board, Mr. Kirkendall testified that he was aware of the moratorium on the utilities when the property was purchased. However, he did not consider it to be an obstacle at that time.

12. Petitioners are requesting a 2001 actual value of \$3,000,000.00 for the subject properties.

13. Respondent's witness, Mr. Brian Reynolds, a Registered Appraiser with the Grand County Assessor's Office, presented an indicated value of \$3,830,580.00 for the subject properties based on the market approach.

14. Respondent's witness presented nine comparable sales ranging in sales price from \$118,000.00 to \$1,292,500.00 and in size from 0.7 acres to 8.78 acres. After adjustments were made, the sales ranged from \$128,000.00 to \$1,344,200.00.

15. Mr. Reynolds testified that Sales 1 through 4 are located within the subject's multi-family subdivision. Sales 5 through 9 are not located within the subject's subdivision, but have a multi-family use and were considered to be comparable.

16. Mr. Reynolds testified he made two physical inspections of the site. The subject's "highest and best" use was considered to be multi-family development. To the best of his knowledge, there was no moratorium on the water and sewer taps as of June 30, 2000. Mr. Gary Cooper, President of the Water and Sanitation District, to confirm the issue of the moratorium.

17. Mr. Reynolds testified that the subject tracts are between the towns of Winter Park and Fraser, and the subdivision was platted in the late 1960s or early 1970s. The tracts are delineated as a multi-family, high-density development with 20 units per acre. The subdivision is approximately 80% developed at this time and located about 10 miles from Winter Park Ski Area.

18. Mr. Reynolds testified two of the sales presented by the Petitioner were not considered to be appropriate comparables. Both of these sales are single-family use lots and not anticipated to be multi-family use.

19. Mr. Reynolds testified that he did not consider the subject sale a suitable comparable. Each parcel has its own schedule number and can be sold separately. The subject was purchased in bulk which usually indicates a discount on multiple lots.

20. Under cross-examination, Mr. Reynolds testified that he was not aware of any sketch plan being approved by the County Commissioners on a portion of the subject property. He further testified that he was not aware that sewer and water taps were not available. He testified that the zoning for Sales A and B, as submitted by the Petitioner, is the same as the subject but the plat states the use could not be multi-family. He further testified that if he had knowledge of a sewer moratorium or lack of availability of sewer taps, it would not have an impact on the appraisal.

21. In redirect, Mr. Reynolds testified that all zoning in the county for residential is "R," that 20 units per acre may be built on the subject tracts, that only a single-family residence could be built on Comparables A and B presented by the Petitioners, and that tracts for multi-family use sell for more than single family.

22. In rebuttal, Petitioner's witness, Mr. Kirkendall testified he has been to the sanitation board many times, and has been turned down every time saying that they will not issue any sewer availability letters on anything more than a single family until there is a sewer plant under construction.

23. Respondent assigned an actual value of \$3,830,580.00 to the subject properties for tax year 2001.

## **CONCLUSIONS:**

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

2. The Board has carefully considered all admitted evidence and testimony and has affirmed the Respondent's value. The Respondent presented nine comparable sales supporting the assigned value conclusion. The adjustments made to the sales are reasonable and take into consideration any differences in characteristics. Four of the comparable sales are located within the subject's subdivision and the other four are located in competing areas. These sales are available for multi-family development and considered to be comparable sales.

3. The Board could give little weight to the comparable sales presented by the Petitioner. There were no adjustments made to any of the sales for any differences in characteristics.

4. The Board concurs with the Respondent that the sale of the subject would not be an appropriate sale to be considered. The subject's tract has separate schedule numbers and may be sold separately and discounting for multiple sites would have been involved.

5. The Petitioner expressed concern over the impact the moratorium on the utilities would have on the value of the subject. However, the Petitioner did not present the Board with any evidence to indicate what affect it would have on the value, if any. The Petitioner testified that he was aware of it at the time of the purchase and did not consider it to be an obstacle.

6. The Respondent's assigned value has taken into consideration any factors affecting the overall valuation. The assigned value is well supported and is affirmed based on the testimony and evidence presented to the Board for consideration.

### **ORDER:**

The petition is denied.

The Petitioners failed to appear on time for the hearing, due to the inconvenience placed upon the Respondent to reappear for the hearing, the Board has ordered the Petitioners to pay for the Respondent's parking costs.

### **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 18<sup>th</sup> day of April, 2002.

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach  
Debra A. Baumbach

Steffen A. Brown  
Steffen A. Brown

This decision was put on the record

APR 18 2002

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

Penny S. Bunnell  
Penny S. Bunnell

