

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WILLIAM W. THOMAS,</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: William W. Thomas Address: 6923 South Clarkson Street Centennial, Colorado 880122-1219 Phone Number: (303) 795-3357 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39190</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 IMP ONLY 20-11-78 B0569 P0252 UL98
(Park County Schedule No. R0006368)**

Petitioner is protesting the 2001 actual value of the subject property, a log cabin built in 1925, with 640 square feet, with no utilities and a 240 square foot garage. The neighborhood has no winter road maintenance by the county and is known as the Weston Pass Summer Home Group. The cabin is located on federal land under a special-use permit from the Forest Service with only the improvements taxed.

ISSUES:

Petitioner:

Petitioner contends that his log cabin has been overvalued based on the lack of utilities, and that accessibility to the cabin has not been considered by the Respondent.

Respondent:

Respondent contends that the subject property was correctly valued using sales of similarly situated forest service cabins.

FINDINGS OF FACT:

1. The Board incorporates Ms. Kristy Gould's testimony, the Board's examination, and Respondent's closing arguments from Docket 39299 into this docket.
2. Mr. Thomas, Petitioner, presented the appeal on his own behalf.
3. Petitioner presented an indicated value of \$15,000.00 for the subject property based on the market approach.
4. The Petitioner presented no comparable sales.
5. The Petitioner testified that he visited the Park County, Teller County, and Clear Creek County comparable sales that were presented by the Respondent. The Park County sales appear to be four wheel-drive accessible. The comparable sale located at 872 Hefferman Gulch has winter maintenance only to Echo Lake, which is near the cabin, and it is his opinion the road could be opened by a pick-up truck with a blade. The other two Clear Creek County sales are only .25 mile from Highway 40, and that he believes the owners could snowshoe in to their cabins. All of the Teller County sales had winter access according to Mr. Thomas. He indicated that from early October to late May it was not probable to get to his cabin due to the lack of winter road maintenance.
6. The Witness testified that he understands the Respondent adjusted the subject property value 30 percent for lack of utilities for his cabin, but he believes they should also make an adjustment for location.
7. The Petitioner testified that it is unreasonable for the Respondent to include the cabins in the Weston Pass Summer Home Group in Economic Area 6. Highway 9 from Fairplay is the access to Summit County and Breckenridge, while County Road 22 over Weston Pass goes to Lake County. The Chaffee County sales were not considered comparable because they had hot springs, the ski area, and open access throughout the winter months.
8. Mr. Thomas testified that age and condition would be a factor in the appraisal if good comparable sales were utilized.

9. The witness testified that there was a discrepancy in the Respondent's documentation for his cabin in regards to gross living area. The notice of value indicated that there were 600 square feet, while the appraisal report prepared on August 3, 2001 by the Park County Assessor's Office indicated 640 square feet. Mr. Thomas said he measured the cabin and arrived at 558.904 square feet based on interior measurements.

10. The witness testified that the comparable sales presented by the Respondent are some distance from the subject property and perhaps similar cabins from Lake County could have been utilized by the Respondent.

11. Petitioner testified that a 30 percent adjustment for lack of utilities and an additional 50 percent adjustment for accessibility should be applied to the valuation of his cabin.

12. Petitioner is requesting a 2001 actual value of \$15,000.00 for the subject property.

13. Under cross-examination, Mr. Thomas testified that he did visit the comparable sales during the winter. He was also asked by the Respondent if any other characteristics should be taken into consideration in valuing his property, such as access to a stream. The adjustments for other characteristics that his property has may result in a positive adjustment to the value.

14. During questions from the Board, the witness testified that he contacted a neighbor of the property at Hefferman Gulch, and he indicated to Mr. Thomas that there has not been sufficient snowfall recently to keep the owners out of that cabin. Mr. Thomas maintains that his cabin is accessible from Memorial Day to Labor Day, although the Forest Service does an annual inspection of the properties sometime in September to check for fire protection and cleanliness with a report sent to the homeowner in March directing them to fix any problems the following summer.

15. Respondent's witness, Ms. Kristy Gould, a Licensed Appraiser with the Park County Assessor's Office, presented an indicated value of \$33,616.00 for the subject property based on the market approach.

16. 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 electric service or phone.

17. 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.

18. The witness testified that a discrepancy on the size of the cabin has been acknowledged. Based on the physical inspection of the cabin, the measurements are 20 feet by 32 feet, indicating 640 square feet. An error for the garage was also indicated as it was valued at \$16.00 by the Respondent and it should have been \$1,000.00. The county did not revalue the garage at this time, although it might have increased the value for the property.

19. Under cross-examination, Ms. Gould testified that she performed an exterior inspection of the subject property on August 1, 2001. She also indicated that she must use the market approach to value in assigning values to residential real estate.

20. Respondent assigned an actual value of \$33,616.00 to the subject property 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 recognizes that standard appraisal practice indicates gross living area is based on exterior measurements, and that the Respondent's presentation of 640 square feet is based on a recent and actual exterior measurement of the cabin.

3. 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.

4. The Board agrees that the cabin located at 872 Hefferman Gulch in Clear Creek County was the most compelling sale. This sale had 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, not including the \$16.00 assigned value for the garage, calculates to \$52.50 per square foot for the cabin, a much lower value than that indicated by the Clear Creek County comparable sale. The Board recognizes that snowfall varies from year to year and that the above-mentioned comparable sale may have been accessible the past couple of years, but that it may not always be that way. The Board was not convinced that a location adjustment was warranted.

5. Furthermore, the Board was not convinced the Forest Service lease would be terminated without a ten-year notification, based on the copy of a typical lease that was provided to 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.

6. Respondent's assigned value of \$33,616.00 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.

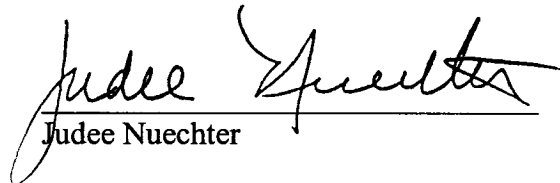
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 1st day of March, 2002.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart



Judee Nuechter

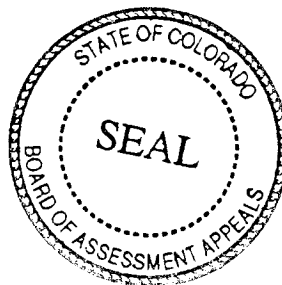
This decision was put on the record

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



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