

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALVAN E. PORTER,</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: Alvan E. Porter Address: 3608 Burningwood Road Edmond, OK 73013 Phone Number: (405) 842-0038 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39229</p>
<p>ORDER</p>	

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

PROPERTY DESCRIPTION:

Subject property is described as follows:

**T11 R78 S20 IMPS ONLY NAT'L FORREST LAND
(Park County Schedule No. R00013172)**

Petitioner is protesting the 2001 actual value of the subject property. The subject property consists of a two-room log cabin with 779 square feet and built in 1933. There is no indoor plumbing and no electricity. The cabin is located in the Weston Pass Summer Home Group on Park County Road 22 (Weston Pass Road). 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 dependable access for only four to five months in the year.

ISSUES:

Petitioner:

Petitioner contends that his cabin has been overvalued based on lack of utilities and limited access. He believes a location adjustment is warranted since his cabin is not accessible during the winter months. Mr. Porter indicated that the comparable sales the Respondent presented are acceptable to him.

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. The Board incorporates Ms. Kristy Gould's testimony and the Board's examination from Docket 38513 into this docket.
2. Mr. Alvan E. Porter, Petitioner, presented the appeal on his own behalf.
3. Based on the market approach, Petitioner presented an indicated value of \$15,143.76.
4. Petitioner presented no comparable sales.
5. The Petitioner testified that an analysis of the adjustments presented by the Respondent was not presented in her report. There was no explanation as to how the 30 percent utility adjustment was determined or how it relates to the actual value. He felt it could have been an arbitrary adjustment and perhaps it should have been 50 percent.
6. The Petitioner testified that location is the most important element in real estate valuation and if location is not considered, the valuation is then flawed. He felt that the Respondent should have adjusted the value of his cabin by an additional 30 percent for location.
7. Mr. Porter presented the Board with additional adjustments he felt were warranted in the valuation of his cabin. Those included a 42 percent adjustment for useability of the subject property, since he only had 5 months of access to his site. Additionally, he felt a 10 percent adjustment for the uncertainty of the Forest Service lease should be applied to his cabin. The assigned value of \$76.00 a square foot from the county would be reduced to \$19.44 a square foot or \$15,143.76, based on his adjustments.

8. Petitioner testified that the lease for his cabin has only 6 years remaining and notice must be given before the lease can be terminated. He does not know if the lease will be renewed, but he believes it will.

9. The Petitioner testified that the condition of the cabin could possibly affect the value. He does not know how to adjust condition since he has not inspected the comparable properties and does not know their condition.

10. Petitioner feels that there is no justification that a reasonable person would pay \$42,000.00 for the subject property, although he would not sell his property for \$15,000.00.

11. Petitioner is requesting a 2001 actual value of \$15,143.76 for the subject property.

12. Under cross-examination, the Petitioner testified that he is not a licensed appraiser but is a Real Estate Broker. He felt the Respondent had used comparable sales that were year-round properties based on previous testimony. His property had 5/12 average use based on 5 months of access.

13. Respondent's witness, Ms. Kristy Gould, a Licensed Appraiser with the Park County Assessor's Office, presented an indicated value of \$42,228.00 for the subject property based on the market approach.

14. 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. The subject cabin was adjusted by 30 percent to account for no electrical service or phone.

15. The comparable sale located at 872 Hefferman Gulch in Clear Creek County was indicated as the most similar sale to the subject cabin with limited access, remote location and no utilities. This property 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.

16. The witness testified that she did not do a paired sales analysis for her report. She did not apply a location adjustment since she testified that Chaffee and Clear Creek Counties are most similar to Park County and that no statistical adjustment could be determined. No individual adjustments were applied to the comparable sales in regards to condition, decks, or quality, but a 30 percent adjustment was made for lack of utilities. She felt that if she did make adjustments for individual characteristics of each comparable sale the values would have been higher.

17. Under cross-examination from the Petitioner, the witness testified that there appears to be a relationship between Summit County values and that of Park County properties located near the Summit County line. Those values have been impacted by rising real estate values in Summit County.

18. The witness testified that the Forest Service lease prohibits full term residency of the subject cabin and that of the comparable cabins and the other cabins within the Weston Pass Summer Home Group.

19. Respondent assigned an actual value of \$42,228.00 to the subject property for tax year 2001.

20. The Respondent's witness testified that to the best of her ability and using the market approach, she has arrived at a fair market value of the subject cabin with consideration of location and other adjustments, although no adjustments other than for lack of utilities was applied. Statistical analysis was used by the Respondent; whereas, the Petitioner admitted he used arbitrary figures.

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, the 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 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 30 percent deduction for a lack of utility services. Respondent's total value calculates to \$54.21 per square foot, a much lower value than that indicated by the Clear Creek County comparable sale with similar location. 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 to the Board. The Board was convinced by the 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 \$42,228.00 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

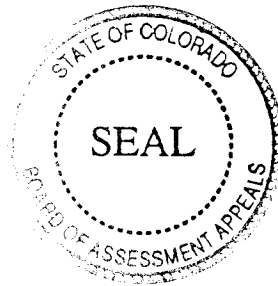
This decision was put on the record

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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