

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DENICE C. REICH,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Denice C. Reich Address: 1873 South Bellaire #700 Denver, CO 80222</p> <p>Phone Number: (303) 759-6644 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39298</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 13, 2002, Karen E. Hart and Judee Nuechter presiding. Petitioner appeared pro se via teleconference. Respondent was represented by John M. Ely, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Oklahoma Flats Addition, Block 2, Lot 1 and South ½ of Lot 2
known as 230 North Spring Street, Aspen, CO (Pitkin County
Schedule Number R015104, Parcel Number 2737 073 11 006)**

Petitioner is protesting the 2001 actual value of the subject property, a single-family residential dwelling located at 230 North Spring Street, Aspen, Colorado. The site is comprised of approximately 8,712 square feet and zoned R-30 Residential. There is a single family dwelling on the site consisting of 1,056 square feet.

ISSUES:

Petitioner:

Petitioner contends that the property is severely impacted by an adjacent park, which limits access to her property during the winter months due to snow accumulation and illegal parking. The setbacks from the Roaring Fork River, which are imposed by the City of Aspen, make it nearly impossible to build on the site. Based on these limitations, the subject property has been overvalued.

Respondent:

Respondent contends that the subject is improved with a small residential structure although the site is valued as vacant land. The property has been properly valued for the base time period using the market approach with appropriate adjustments.

FINDINGS OF FACT:

1. The Board incorporates the testimony of Ms. Denice Reich, Respondent's witness testimony and comparable sales information, and the Board's examination from Docket 39297 into this docket.

2. Ms. Denice Reich, Petitioner, presented the appeal on her own behalf by telephone conference call.

3. Petitioner presented an indicated value of \$1,000,000.00 for the subject property.

4. Petitioner presented one comparable sale. The sale price was indicated by Petitioner as \$2,000,000.00 and was located at 855 Bay Street. Ms. Reich presented the site size of this sale as 63,000 square feet, which is approximately nine times the size of the subject property and indicated to the Board that the proportional value for her property would be \$222,222.00. No other adjustments were made to this sale.

5. The Petitioner testified that the subject site is approximately 8,000 square feet. Ms. Reich presented photos showing large rocks placed in the roadway that do not allow access to the adjacent park and subsequently results in park users parking their cars on or near her driveway. A duplex property is located across the street from her property and the tenants typically park up to five cars in the street, which does not allow her to get in or out of her driveway in the winter. There is no access for emergency vehicles to the fire hydrant near her property when these cars are parked on the street. Additionally, the snow storage during the winter months at the entrance to the park does not allow Ms. Reich access into her driveway. She feels she has significantly reduced access to her property as compared to other properties on the same street.

6. The Petitioner testified that the allowable FAR (Floor Area Ratio) for new construction on her site would be 3,000 square feet due to a 15-foot setback from the river that is

required by the City of Aspen. This FAR is considerably lower than other properties within her subdivision. A basement is not allowed on her property. She believes the flood exposure is greater for her property than any other properties within the City of Aspen.

7. Ms. Reich testified that the dwelling located on the subject site is her family home which has approximately 1,200 square feet and is her summer home. She rents out the home during other times of the year. The tenants are allowed vehicles but constantly complain to her about a lack of parking. She has lost tenants due to the parking problems.

8. Petitioner is requesting a 2001 actual value of \$900,000.00 for the subject property.

9. Respondent's witness, Mr. Larry Fite, a Certified General Appraiser with the Pitkin County Assessor's Office, presented an indicated value of \$2,000,000.00 for the subject property, based on the market approach.

10. Respondent's witness presented eight comparable sales ranging in sales price from \$1,380,000.00 to \$5,223,000.00 and in size from 10,352 square feet to 1.46 acres. After adjustments were made, the sales ranged from \$1,971,750.00 to \$2,720,250.00.

11. The Respondent's witness testified that the subject property was an 8,712 square foot site with a 1,034 square foot dwelling. The subject is located across the Roaring Fork River from downtown Aspen. The Highest and Best Use as determined by the Respondent is to demolish the existing house and rebuild a new dwelling with an allowable size of 3,999 square feet, based on building department regulations.

12. The Respondent testified that the FAR (Floor Area Ratio) allowed for the subject property is smaller than other lots in neighborhood, with a typical lot allowing a 4,500 to 5,500 square foot dwelling. The access problem for the subject property is not a determining factor for the size of the dwelling that could be built on the site. All of the comparable sales had a larger FAR allowed than the subject property. The comparable sales were presented with adjustments that were based on similar criteria as those in Docket Number 39297 and applied to the subject property with consideration of the existing improvements.

13. The Respondent's witness presented the subject property as having challenges that affects future redevelopment including construction of a garage, setbacks, access and parking. Mr. Fite made a \$250,000.00 adjustment to each of the eight sales for these challenges.

14. The Respondent's witness testified that based on the limitations of the subject site and referring to the adjustments made in Docket Number 39297, the smaller size of the subject parcel is considered \$500,000.00 less in value than a similarly located larger site.

15. Under cross-examination, Mr. Fite testified that he did not make an adjustment for possible flood damage to the subject property since that potential is the same for all river front properties. He felt that he did consider an appropriate consideration for the comparable sales in regards to the parking problem of North Spring Street.

16. Respondent assigned an actual value of \$1,450,000.00 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 agrees that the Floor Area Ratio that is allowed for each property is important in determining value. However, the Board was convinced that the Respondent's witness correctly applied adjustments to the comparable sales in regards to the smaller Floor Area Ratio (FAR) allowed on the subject property. After adjustments were made to the comparable sales, the adjusted values of those sales indicated values above the assigned value of the subject property.

3. The Petitioner did present one comparable sale to the Board but did not make any adjustments to this sale other than a proportional adjustment for site size. The Respondent's witness applied appropriate adjustments to his comparable sales for Floor Area Ratio, time adjustments, the subject's superior river frontage, and building improvement adjustments. Additionally, the Board felt that the Respondent utilized an appropriate adjustment for limitations that may be encountered in building a new dwelling on the subject site such as parking, access and setbacks.

4. The Board was not convinced that the general flood exposure for the subject property is any greater than other properties located along the Roaring Fork River.

5. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$1,450,000.00.

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 25th day of April, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Judee Nuechter
Judee Nuechter

This decision was put on the record

APR 24 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

