

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ARTHUR E. EVERETT, JR.,</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: Arthur E. Everett, Jr. Address: 5000 Alpine Road Portola Valley, CA 94028 Phone Number: (650) 851-3414 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39299</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 SE4 B0239 P0676 UL98 CABIN ON NAT'L
FORREST LAND WESTON PASS IMPS ONLY
(Park County Schedule No. R0006477)**

Petitioner is protesting the 2001 actual value of the subject property, which consists of a log cabin located in the Weston Pass Summer Home Group on Park County Road 22 (Weston Pass Road). The cabin was built in 1955 and has 576 square feet with no utilities or garage.

ISSUES:

Petitioner:

Petitioner contends that the value of his cabin established by the Park County Assessor is too high based on the absence of utilities and the lack of a location adjustment by the Respondent.

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. Everett, Petitioner, presented the appeal on his own behalf via telephone conference.
2. Based on the market approach, Petitioner presented an indicated value of \$17,500.00 for the subject property.
3. Petitioner presented no comparable sales.
4. The Petitioner testified that the 30 percent adjustment for lack of utilities in the neighborhood is accurate. He feels that an additional 50 percent adjustment should be made for the actual improvements such as domestic heating, duct work, furnaces, phone wiring, electrical panels, outlets, built-in appliances, et cetera, that exist in the comparable sales. These items represent 40 percent to 60 percent of the market value of the improvements based on his knowledge of building costs. Mr. Everett is a licensed architect in the state of Colorado.
5. The Petitioner presented testimony regarding a location adjustment that should be adjusted to the value on a portion of each year that the cabin had access. He indicated that 5 to 7 months is typical for use and access to his cabin per year. He felt that a 50 percent adjustment would be appropriate for access and location. The value established by the Respondent for the Petitioner's cabin is \$52.59 a square foot after the 30 percent deduction for lack of utilities was made. Additionally, a 50 percent deduction for lack of mechanical and plumbing elements would reduce the value to \$26.30 a square foot. An access adjustment of 50 percent would then be applied reducing the value to \$13.15 a square foot. Based on the 576 square feet the cabin indicates, the value the Petitioner is requesting is \$7,500.00.

6. Under cross-examination, the Petitioner was asked how he determined a 50 percent adjustment for lack of mechanical and plumbing elements was calculated. He testified that in an unfinished structure these elements represent 40 percent to 60 percent of the cost, which was rounded to 50 percent. He acknowledged that market value and costs are not the same. He believes the altitude and inaccessibility, the unfinished nature of his cabin, the uncertainty of the Forest Service lease, and the lack of utilities indicate the marketability is very limited for his property. He has never listed his cabin for sale. The land lease is considered a burden for his property.

7. The Petitioner testified to the Board that he has only been to the cabin twice in the past four years.

8. Petitioner is requesting a 2001 actual value of \$7,500.00 for the subject property.

9. Respondent's witness, Ms. Kristy Gould, a Licensed Appraiser with the Park County Assessor's Office, presented an indicated value of \$30,240.00 for the subject property based on the market approach.

10. The witness presented the cabins located in the Weston Pass Summer Home Group as rustic and located off Park County Road 5 and Park County Road 22 onto a Forest Service road for a couple of miles. The road has county maintenance but no winter maintenance. It is accessible during the winter months depending on the weather. The neighborhood is 17 miles from Fairplay, and she believes its location receives a positive influence from Summit County.

11. Ms. Gould testified that on August 1, 2001 she performed a physical inspection of the subject property. It is located on a creek and is considered well built with a masonry fireplace. The cabin was built in 1958 and is similar to other properties in the neighborhood. Due to the uniqueness of the neighborhood, it was very difficult to value.

12. The witness testified that 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 to 5 years and found 3 sales near Bailey with similar cabins on Forest Service land. She contacted other counties for similar sales within the base year time period. Thirteen sales were submitted from Chaffee County, Teller County, and Clear Creek County. The dwellings were all seasonal and were not permanent residences and had similar 20-year leases. Summit County did not respond to her request, but she believes if they had provided similar sales the values would have been higher than those she received.

13. The witness testified that she reviewed the Forest Service leases including the subject property and the comparable sales.

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 physical differences such as 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 lack of utility services. Only one comparable sale had no utilities.

15. The witness testified that no time adjustments were applied in her report for the subject property. ValuCheck, an independent advisory firm, advised the assessor to remove any time adjustments for the subject property and the other cabins located within the neighborhood due to a lack of documentation to support the adjustment.

16. 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.

17. Respondent assigned an actual value of \$30,240.00 to the subject property for tax year 2001.

18. Under cross-examination from the Petitioner, the witness testified that properties located in Economic Area 6 west of Highway 285 in Park County indicate an influence from Summit County based on the Multiple Listing Service data. She also testified that the road to the subject's neighborhood is not closed in the winter months but that it is not maintained.

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 utilities services, similar to the subject property. The sales price was \$83.33 per square foot, and the Board notes that the 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 calculates to \$52.50 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.

4. Furthermore, the Board was not convinced that 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.

5. Respondent's assigned value of \$30,240.00 is affirmed.

ORDER:

The petition is denied.

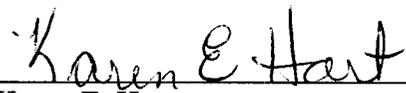
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

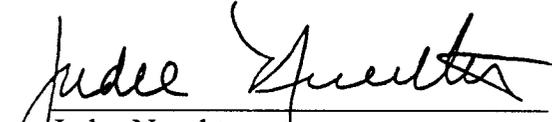
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

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

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

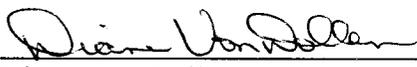


Judee Nuechter

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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