

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN T. AMEND</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: John T. Amend Address: 8150 N Central Expwy, Suite 1100 Dallas, Texas 75206 Phone Number: (214) 696-6900 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39307</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 13, 2002, Russell J. Shaw and Judee Nuechter presiding. Petitioner was represented by David W. Amend. Respondent was represented by Kevin J. Geiger, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**San Miguel County Parcel Numbers: R1080020224 (Lot 224A) &
R1080087224 (Lot 224B)**

Petitioner is protesting the 2001 actual value of the subject properties which consist of two residential vacant land parcels known as Lots 224A and 224B, Telluride Mountain Village, Filing 6, Phase 2, Telluride, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the Respondent did not use all of the comparable sales available from the subject's subdivision during the appropriate time period and that there were more appropriate sales than those used in the Respondent's report. Mr. Amend feels that the Respondent did not consider the lack of privacy due to the busy street next to the two parcels in valuing the subject properties. The adjustments for differences in size by the Respondent were not adequate because of the type of high-end dwellings that are typically built on these lots. The Respondent arrived at an average value, which is excessive, in regards to their application of time adjustments.

Respondent:

Respondent contends that the subject properties consist of two residential vacant land parcels located in Mountain Village, which is home to the finest real estate in San Miguel County. The subject lots are ski-in ski-out to the Telluride Ski Area, making them more desirable. The method used by Respondent is typical of other Per Site versus Per Square Foot analysis in valuing vacant land. The Per Site method is more accurate.

FINDINGS OF FACT:

1. Mr. David Amend presented the appeal on behalf of the Petitioner, Mr. John Amend.
2. Based on the market approach, Petitioner presented an indicated value of \$510,500.00 for each of the subject lots, which have been indicated as 224A and 224B.
3. Petitioner presented three comparable sales for each of the two subject lots ranging in sales price from \$450,000.00 to \$597,000.00 and in size from .403 acres to .753 acres. No adjustments were made to the sales.
4. Mr. John Amend testified that he has been in the commercial real estate business for over 25 years. Every parcel of land is different and especially within the subject's neighborhood. The proximity to other dwellings, the topography and privacy are issues that affect value and which need to be considered in valuing vacant land in Telluride Mountain Village. He believes the subject lots are limited ski-in/ski-out sites due to the impact of the bridge/culvert on the west side of the properties.
5. The witness testified that the two subject lots were purchased by John Amend as buffer properties to prevent another dwelling from being built on their property line and obscuring their views. The Petitioner indicated that his residence is located on another lot that is adjacent to lot 224A. The corner lot, which is Lot 224B, has road noise from Benchmark Drive and no privacy. Auto headlights shine directly into the homes located on the side of the road on which the subject lots are located, which indicates they are substandard in regards to potential building sites. Although Mr. John Amend does not know the setback requirements for the

subdivision, he believes that a building on either of the two subject lots would encroach on his views. The size of dwelling would be substantially restricted due to the shape and topography of the two lots. Additionally, there are two time-share dwellings across the street from the subject lots which the Petitioner believes could restrict the value of his lots since they are multi-family residences, and occasionally, there are more than one family at a time in those dwellings.

6. Mr. John Amend testified that premium prices are typical in Telluride Mountain Village for lots with privacy, but he does not believe his lots would command those prices due to the lack of privacy, the size and the shape of the lots.

7. Under cross-examination, Mr. John Amend testified that he is not a real estate appraiser. He believes that the majority of each lot's value depends on actual use, size, accessibility and the ability for privacy.

8. Under redirect, the Petitioner was asked if he had ever paid more for a property than market value. He stated that he had when he purchased Lot 224B and that he bought the lot to protect his aspen grove and for privacy.

9. Under questioning from the Board, Mr. John Amend testified that the time-share properties are single-family dwellings owned by multiple owners and the structures consist of 3,000 square feet to 3,500 square feet.

10. The Board asked Mr. John Amend if Lot 225B, which is the lot on which Mr. Amend's residence is located, is slightly higher in elevation than the two subject lots. Mr. Amend indicated that it was higher in elevation. The ski run is significantly lower than the subject lots and goes through a culvert under Snowdrift Lane. The culvert and bridge are relevant to the lots value because they are located directly below Lot 224B, which indicates that the lots may not be ski-in/ski-out.

11. Under questioning from the Board, Mr. John Amend testified that the area available for a potential dwelling is greatly reduced on his lots due to their narrow width. He does not believe that a dwelling with 4,000 square feet, which is a typical dwelling size for the subdivision, would be allowed on either of his lots.

12. Under additional questioning from the Board, Mr. John Amend testified that he paid \$535,000.00 for Lot 224B.

13. Mr. David Amend referred to Petitioner's Exhibit B which used information provided by the Respondent and indicated eighteen lots sold during the base time period in Telluride Mountain Village. The adjusted sales price is a calculation to put all sales on an equal footing for time with a 39 percent annual escalation indicated, or .0325 percent per month. A 25 percent reduction was applied for the smaller size of the subject lots. Lot 224A is the smallest lot in the subdivision at .39 acres. Mr. David Amend indicated that a 25 percent reduction may be inadequate and that no adjustment was made for the narrow shape of the subject lots or for lack of privacy. Mr. David Amend computed an average per acre value of \$1,121,000.00, based on sales that occurred within the subdivision. This would indicate that the property value should be \$437,000 per lot, considering its size and other factors. However, Petitioner is only requesting the original value shown on the petition.

14. Petitioner is requesting a 2001 actual value of \$510,500.00 for each of the subject lots.

15. Respondent's witness, Mr. Hartley H. Bloomfield, a Certified General Appraiser and the chief appraiser for the San Miguel County Assessor's Office, presented an indicated value of \$806,250.00 for each of the subject lots based on the market approach.

16. Respondent's witness presented three comparable sales for Lot 224A ranging in sales price from \$535,000.00 to \$860,000.00 and in size from .39 acres to .55 acres. After adjustments were made, the sales ranged from \$743,650.00 to \$999,750.00. Four comparable sales were presented for Lot 224B ranging in sales price from \$597,000.00 to \$1,100,000.00 and in size from .55 acres to 1.87 acres. After adjustments were made, the sales ranged from \$771,622.50 to \$1,207,250.00. Terry Shelby, a certified appraiser from the San Miguel County Assessor's Office also assisted in the appraisal report.

17. The Respondent's witness testified that density, location and the ski-in/ski-out feature were used to determine the value of the lots within the subject's subdivision. Both of the subject lots have been assigned the same value.

18. Mr. Bloomfield testified that the market approach was employed in valuing the subject lots. A sufficient number of confirmed sales were available during the appropriate time period. The general trend for vacant land in Telluride Mountain Village made history due to the fantastic growth in sales and sale prices in 2000 and 2001. Ski-in/ski-out properties typically command higher prices in the subject subdivision.

19. The Respondent's witness testified that the land economic area (LEA) for the subject properties was analyzed with zoning, use and density considered. The typical base value for the subject's LEA was indicated at \$1,075,000.00.

20. Respondent's witness testified that he analyzed 30 sales and utilized 18 in his report. The sales were appropriately time adjusted based on guidelines from the Division of Property Taxation for the State of Colorado.

21. The Respondent's witness testified that he was not aware of any obstacles to the ski run from either Lot 224A or Lot 224B. He did visit the subject lots after the appraisal report was prepared.

22. Mr. Bloomfield testified that the Per Square Foot method is the least appropriate method in valuing vacant land. He further testified that the building site is the most important aspect in valuing, and that size variations in the site may be sub-attributes to value. Accessibility has not been established as a basis for value. The local market typically values lots on a Per Site basis as it demonstrates the most consistent statistical correlation. He believes both of the subject lots are viable building sites, although he did allow a 25 percent adjustment due to their smaller size.

23. Under cross-examination, the Respondent's witness testified he has appraised over 3,000 vacant land parcels within San Miguel County. The appraisal report for this hearing

is based on a mass appraisal process and not a fee appraisal since it was computer assisted.

24. During cross-examination, the Respondent's witness testified that he did not use two additional sales from Telluride Mountain Village since he believes they fell into another LEA and that they may have been invalid or unconfirmed sales. Lot 223A was purchased as a buffer site and has the same value as the subject sites. He believes the access to this lot was inferior to the subject lots. Lot 226 (242 Benchmark Drive) was the other sale that was not used by the Respondent's witness in his report, although it was most similar in size to the subject lots at .4 acres. Mr. Bloomfield indicated that if these two sales had been included in his report, the average base price would be reduced by \$50,000.00.

25. Upon questioning by the Board, Mr. Bloomfield testified that Lot 223A appears larger on his plat map and appears similar in size to the two subject lots together, although it has the same assigned value as each of the subject lots.

26. Respondent assigned an actual value of \$806,205.00 to lot 224A and \$806,205.00 to lot 224B for tax year 2001.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2001.

2. The Board does not believe that valuing the subject lots by making a comparison of all properties in the subject's neighborhood without regard to the differences in characteristics that may exist is good appraisal practice. The Board recognizes that Respondent's witness applied a 25 percent reduction for the smaller size of the subject lots in their valuation. The Board did not hear sufficient evidence from either party to reach a conclusion as to the issue of value as it relates to the ski-in/ski-out feature of the subject lots.

3. The Board felt that the two sales of vacant land sites within Telluride Mountain Village that were not included in the Respondent's report were viable sales and should have been included since they occurred during the appropriate time period. The Board notes that Lot 223A was a substantially larger site than the subject lots, but was assigned the same value as each of the subject lots. Respondent's witness testified that smaller size lots typically receive a 25 percent reduction from the base LEA.

4. Because the price per acre methodology is not considered the most appropriate method in residential site valuation, the Board finds it difficult to accept Mr. John Amend's requested value reduction. A price per site method with appropriate adjustments for individual characteristics is the preferred method in real estate appraisal practices. The Board notes that no adjustments were applied to the comparable sales presented by the Petitioner.

5. The Board has applied the appropriate time adjustment to Petitioner's Sale 2 since testimony indicated that it was of similar site size and the sale had occurred during the appropriate base period.

6. After careful consideration of the testimony presented, the Board concluded that the 2001 actual value of the subject properties should be reduced to \$655,000.00 for Lot 224A and \$655,000.00 for Lot 224B.

ORDER:

Respondent is ordered to reduce the 2001 actual value of Lot 224A to \$655,000.00 and to reduce the 2001 actual value of Lot 224B to \$655,000.00.

The San Miguel County Assessor is directed to change her records accordingly.

APPEAL:

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

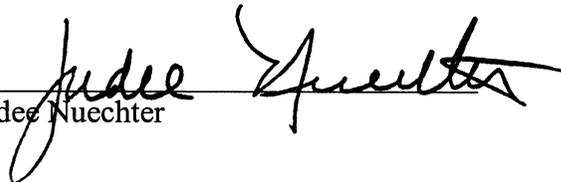
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 27th day of June, 2002.

BOARD OF ASSESSMENT APPEALS



J. Russell Shaw

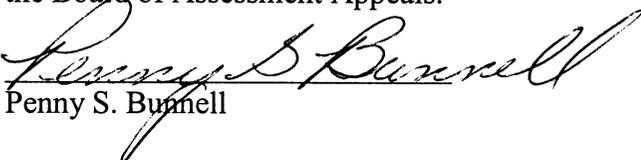


Judee Nuechter

This decision was put on the record

JUN 27 2002

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



Penny S. Bunnell

