

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FRIENDS OF GRACE CHURCH,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard VanInwagen Address: 26624 North Turkey Creek Road Evergreen, Colorado 80439 Phone Number: (303) 674-7777</p>	<p>Docket Number: 41204</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 10, 2003, Steffen A. Brown and Karen E. Hart presiding. Petitioner was represented by Mr. Richard VanInwagen, Agent. Respondent was represented by Lily Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 1, Rocky Mountain Baptist Village, Evergreen, Colorado
(Jefferson County Schedule No. 409830)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2000, 2001, and 2002. The subject property consists of a 2.678-acre tract of vacant land with limited use, located at the corner of Evergreen Parkway and Highway 65 in Bergen Park, Evergreen, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property is platted as a church site and is not buildable due to the plat designation. Respondent has used sales of commercial vacant land to value the subject. The use of these sale comparables, which have higher allowable uses than the subject, results in an overvaluation.

Respondent:

Respondent contends that the subject property is buildable and has been properly valued using comparable commercial land sales, including a sale to a church. The assigned value is much less than the actual market value.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Richard VanInwagen, secretary, officer, director and agent for Petitioner, testified that Petitioner is a non-profit organization. In the early 1990s, Grace Church of the Rockies purchased a greater land parcel with a developer who intended to develop a senior housing facility with a church site to serve residents in the area. The developer was to provide a debt-free church site, but later lost his interest in the property and the Church was left with a 3-acre parcel that had a large debt. A third party then paid the note on the church site to prevent foreclosure and carried a new note for the church. The church contracted with Petitioner to take title of the subject property and to negotiate with the developer, but the developer had no assets available to attach. They lack funds to build a church on the site.

2. Mr. VanInwagen testified that the subject property value was increased from \$10,000.00 to \$13,000.00 per year to \$165,290.00 in 2001, based on commercial land sales. It is shown as a building site on the plat that is unbuildable until further plat or exemption approval. Petitioner cannot get a building permit on the parcel until a replatting occurs. Other properties that are not buildable lots were reduced to 10% of actual value, which is what Petitioner is requesting be applied to the subject property. It should be valued as a church site that is unbuildable.

3. Under cross-examination, Mr. VanInwagen testified that they are attempting to put senior housing on the property; they are no longer contemplating a church or day care center as they lack funds.

4. Petitioner's witness, Mr. Doug Reed with Fine Line Consulting, testified that he is assisting Petitioner with the replatting of the property. The property is not buildable; it is not eligible for a building permit. The zoning is part of the entire Planned Unit Development, which includes senior housing, assisted living, and a church. The senior housing cap has been reached in the other parts of the development. Childcare is an accessory use that could be allowed, but only in conjunction with a church use. They submitted a plat amendment to remove the plat restriction, but the County rejected that process, as the subject was not commercial property. They cannot use the

exemption from platting process for the same reason. Therefore, they have to replat the property as a subdivision, which will make it buildable.

5. Under cross-examination, Mr. Reed testified that his definition of not buildable is when a building permit cannot be obtained. The property cannot be used commercially.

6. Petitioner is requesting a 2000, 2001, and 2002 actual value of 10% of the current assigned value.

7. Respondent's witness, Mr. David D. Niles, a Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value for the subject property of \$404,790.00 for tax year 2000, and \$449,110.00 for tax years 2001 and 2002, based on the market approach.

8. Mr. Niles testified that there are two base years involved with the subject property: June 30, 1998 and June 30, 2000. The assigned value for tax year 2000 is \$12,850.00, which is approximately 11 cents per square foot. He cannot explain how that value was derived. It must have been an error; the assigned values for 1995 through 1998 were more than \$120,000.00. For 2001 and 2002, the assigned value is \$165,290.00.

9. For tax year 2000, Respondent's witness presented two lists of 26 vacant land sales ranging in sales price from \$.89 to \$9.88 per square foot and in size from 15,987 to 321,473 square feet. There were no adjustments made to the sales. The median sales price was \$3.47 per square foot; the subject property's assigned value is 11 cents per square foot.

10. For tax years 2001 and 2002, Respondent's witness presented a list of 12 vacant land sales ranging in sales price from \$2.58 to \$7.42 per square foot and in size from 22,913 to 217,800 square feet. There were no adjustments made to the sales. The median sales price was \$3.85 per square foot; the subject property's assigned value is \$1.42 per square foot.

11. Mr. Niles testified that there was a church land sale at \$1.94 per square foot that occurred on January 6, 1997. This sales price supports Respondent's value.

12. Regarding Petitioner's Exhibit A, the listed non-buildable parcels are truly not buildable. Ms. Bev Evans in the Jefferson County Planning and Zoning Department told him that the subject property is buildable as a church site. Petitioner needs to do a site development plan and can then obtain a building permit without replatting.

13. Respondent assigned an actual value to the subject property of \$12,850.00 for tax year 2000, and \$165,290.00 for tax years 2001 and 2002.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the valuations of the subject property for tax years 2000, 2001, and 2002 were correct.

2. Petitioner did not present any comparable sales data to support a value reduction. The Board was not convinced that the subject property is not buildable in the sense that no building permits will be issued for any structure. Testimony indicated that it is a buildable site for a church, though not for commercial or residential uses.

3. Respondent presented many commercial land sales that occurred during the appropriate time frames. The Board is not convinced that commercial use sales would be the best sales to use to value a property that is restricted to a church use. However, the Board was convinced that the Lookout Mountain Community Church sale, which occurred on January 6, 1997 at \$1.94 per square foot, is a good comparable sale as it is the same use as the subject property and is similar in size. Respondent's assigned value at 11 cents per square foot for 2000 and \$1.42 for 2001 and 2002 is less than the sales price per square foot of that sale.

4. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$12,850.00 for tax year 2000 and \$165,290.00 for tax years 2001 and 2002.

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.

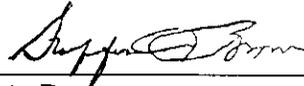
In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 17th day of September, 2003.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

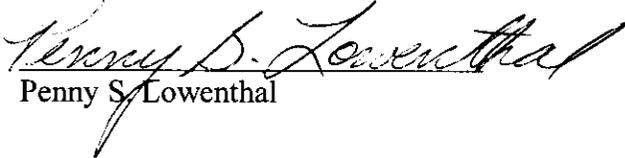


Karen E. Hart

This decision was put on the record

SEP 16 2003

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


Penny S. Lowenthal