

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>EDWARD T. BENNING &amp; FRANKIE BENNING,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GRAND COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Edward T. Benning Address: 6968 Springhill Drive Longmont, Colorado 80503 Phone Number: (303) 652-3810 E-mail: tedben@solusys.com</p>	<p><b>Docket Number: 41825</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 1, 2005, Debra A. Baumbach and Diane M. DeVries presiding. Petitioners appeared pro se. Respondent was represented by Anthony J. DiCola, Esq. The Petitioners are protesting the 2003 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**841 Forrest Drive (County Road 8952) Lot 58, Block 14,  
Innsbruck-Val Moritz  
(Grand County Schedule No. R131900)**

The subject property is a .04 acre vacant land parcel located near the intersection of Forrest Drive and Hummingbird Way in the Innsbruck-Val Moritz subdivision in Sol Vista formerly Silver Creek near Granby, Colorado

## **ISSUES:**

### **Petitioners:**

Petitioners contend that the subject property has been incorrectly valued for tax year 2003 since the Respondent did not consider the deficiencies of the subject. The Petitioners' sales are more reflective of the actual value of the subject property.

### **Respondent:**

Respondent contends that the subject property has been properly valued by using the sales comparison approach. The comparable sales used reflect the characteristics of the subject property.

## **FINDINGS OF FACT:**

1. Edward T. Benning, Petitioner, presented the appeal on behalf of the Petitioners.
2. Mr. Benning testified that the subject property is sloping with no trees and no view. Petitioners indicated that the subject has extensive depression and would require substantial fill to build on the lot. Further, the subject has drainage issues making it difficult to build. After discussions with the County Architectural Committee the Petitioners withdrew their application to build.
3. Based on the market approach, Petitioners presented an indicated value of \$31,500.00 for the subject property.
4. Petitioners presented three comparable sales ranging in sales price from \$24,500.00 to \$41,500.00. The Petitioners withdrew Items 1, 2, and 4 of Petitioners' Exhibit B since these properties were not sales. The Petitioners' comparable sale 3 sold for \$24,500.00 and is directly above the subject property. It has no view, no trees and is sloping. It shares the property line with the subject. Comparable sale 5 sold for \$41,500.00 and has an excellent view of Granby and Rocky Mountain National Park. This site is more flat than the subject and has no trees. Comparable sale 6 sold for \$24,670.00. This site is gently sloping with expansive view of Granby and the mountains. The Petitioners believe that comparable sale 3 is most comparable to the subject property.
5. Petitioners are requesting a 2003 actual value of \$31,500.00 for the subject property.
6. Respondent's witness, Tom F. Weydert, Certified Residential Appraiser with the Grand County Assessor's Office, presented an indicated value of \$45,700.00 for the subject property, based on the market approach.
7. Respondent's witness presented four comparable sales ranging in sales price from \$46,000.00 to \$65,000.00. After adjustments were made, the sales ranged from \$41,228.00 to \$60,205.00.

8. Mr. Weydert testified he physically inspected the subject property twice. The subject is ¼ mile from Sol Vista Ski Area and 8 miles from Winter Park Ski area. It is located in economic area 2. There were 163 sales during the base period including 50 vacant land sales within Innsbruck.

9. Mr. Weydert stated that the subject gently slopes upward and dramatically increases slope at the ridgeline. He believes that the lower portion of the subject is buildable. Within Innsbruck you cannot impede the natural drainage flow; therefore, most properties require culverting.

10. Mr. Weydert testified that the four comparable sales that he used were in close proximity to the subject with similar characteristics. He adjusted for time. There was a downward time trend of 9.6% per year. The influx of sales due to the developer selling lots created a downward market.

11. Mr. Weydert stated that Petitioners' comparable sale 3 is significantly steeper than the subject property. From Deer Trail Drive, County Road 897, this lot is 12° to 15° below grade of the road.

12. Under cross-examination, Mr. Weydert stated that Respondent's comparable 1 has a slight view. Comparable 2 has a good view, no trees, the building site is flat, and there is pretty good slope on the north end of lot. Comparable 3 is slightly sloping with a 5% grade, trees, clearing to build and not as good a view as comparable 2. Comparable 4 is slightly sloping with 5% grade, views, and no utility problems.

13. Respondent assigned an actual value of \$45,700.00 to the subject property for tax year 2003.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. Respondent presented a well-supported and documented appraisal report. Adjustments were made to the comparable sales for differences.

3. The Respondent chose four comparable sales in close proximity to the subject property. The Respondent's witness believes that difficulties with lots are reflected in the selling price. The Board agrees. Petitioners' comparable sale 3 sold for \$24,500.00; however, it appeared through evidence and testimony that the buyer would incur substantial cost to build. The Respondent chose sales that occurred within a few blocks of the subject and therefore had the same elevation and topography issues as the subject. The Respondent made adjustments for the sales that had trees, no trees, views or no views.

4. The Board gave little weight to the Petitioners' value conclusion. None of the sales were adjusted for differences. After adjustment, the value range of Petitioners' sales support the assigned value.

5. The Petitioners withdrew plans to build on the subject after application was made to the County Architectural Committee. However, the Petitioners presented no evidence or cost estimates to indicate that the subject was not a buildable site.

6. Based on the evidence and testimony submitted, the Board determined that the Respondent properly valued the subject property for tax year 2003 at \$45,700.00.

**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 17<sup>th</sup> day of March, 2005.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Diane M. DeVries*

Diane M. DeVries

This decision was put on the record

MAR 16 2005

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

*Diane M. Fechisin*

Diane M. Fechisin