

<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>JULES AND MARCIA ORNSTEIN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PARK COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jules Ornstein Address: 10431 Livingston Drive Northglenn, Colorado 80234 Phone Number: (303) 452-5152</p>	<p><b>Docket Number: 42100</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 25, 2004, MaryKay Kelley and Diane M. DeVries presiding. Petitioners were represented by Jules Ornstein. Respondent was represented by Steve Groom, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Four Mile Ranch 4038 Tract 83  
(Park County Schedule No. 7587)**

Petitioners are protesting the 2003 actual value of the subject property, a 20-acre vacant land parcel in a residential subdivision located in Four Mile Ranch 4038. The subject property is located north of County Road 102 off Owls Nest Road. There is an easement between parcels 70 and 79. Access to the subject property is from a one-way dirt road.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property is overvalued for tax year 2003. Access is difficult and at times they are required to hike to the subject property.

### **Respondent:**

Respondent contends that the subject property is correctly classified and valued as vacant land. By Colorado Constitution and Colorado Revised Statutes, the proper approach to valuing the subject property is the market approach.

## **FINDINGS OF FACT:**

1. Mr. Jules Ornstein, Petitioner, presented the appeal on behalf of the Petitioners.
2. Mr. Ornstein testified that the subject property is not being used for agricultural purposes and should not be classified as agricultural. It is a residential vacant land parcel.
3. Mr. Ornstein testified that the subject property is a 20-acre parcel located north of County Road 102 on Owls Nest Road. Owls Nest Road is a dirt road that is not very well traveled. He owns an easement right of way between parcel 70 and 79. As the easement turns north along parcel 70 to the subject property, the road is rough and at times the Petitioners have had to hike to the subject property. Respondent's Exhibit A, page 39, is indicative of the first part of the easement.
4. Mr. Ornstein testified that there are no utilities to the property. He is not aware that any utilities will be made available. The hospital is located 42 miles from the subject property and the fire department is located about seven miles from the subject property. He stated that a few years ago a new house was built close to the subject property and burned down. The fire department was unable to reach the property before it burned down.
5. Mr. Ornstein testified that he purchased the subject property in 1979 for \$8,500.00. The only thing that has happened to the subject property is that the physical easement has disappeared due to lack of travel.
6. Mr. Ornstein testified that parcels 64, 65, 79 and 80 have been sold and the new owner has applied for a special use permit. He believes that the parcels are going to be used as a miniature Ely's or an amusement park. Access to this facility will be by way of the Petitioners' easement, which is in the Petitioners' name. The witness testified that the subject property is a beautiful site and he is very upset about what is happening to the adjacent parcels.
7. On questions from the Board, Mr. Ornstein testified that the Petitioners have legal access to use a 14-foot right of way easement on parcels 70 and 79.

8. Mr. Ornstein testified that the Petitioners hike about one mile from where the road is too rough to travel. Further, he stated that the easement going north along the east side of parcel 70 cannot be easily seen unless one knows where it is located.

9. Petitioners are requesting a 2003 actual value of \$8,500.00 for the subject property.

10. Respondent's witness, Sandra J. Hagan, a Certified Residential Appraiser with the Park County Assessor's Office, presented an indicated value of \$35,300.00 for the subject property based on the market approach.

11. Respondent's witness presented three comparable sales ranging in sales price from \$35,000.00 to \$55,000.00 and in size from 20 acres to 21 acres. After adjustments, the sales ranged from \$35,300.00 to \$43,920.00. All three comparable sales are south of County Road 102. There were no sales north of County Road 102.

12. Ms. Hagan testified that she made an on-site inspection of the subject property on June 2, 2004. She gained access to the subject property through the Petitioners' easement. Respondent's Exhibit A, page 35 is typical of the easement.

13. Ms. Hagan testified that the adjacent property is used as a rope course for corporate and government team building activities. As part of the special use permit, there is a requirement that the easement be improved and maintained. During her site visit, she discovered that the easement is well maintained and she was able to drive directly to the subject property. The easement road loops through parcel 83 and 84 and back to Owls Nest Road.

14. Respondent assigned an actual value of \$35,300.00 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. The Board agrees with both parties that the subject property is not used for agricultural purposes; therefore, the Respondent properly classified and valued the subject property as residential vacant land. The Petitioners did not present any comparable sales to value the subject property. The Petitioners' requested value of \$8,500.00 is the 1979 purchase price.

3. The Respondent is required by the Colorado Constitution, Colorado Revised Statutes, and the Division of Property Taxation's Assessor's Reference Library to value residential vacant land by using the market approach to value. The Board determined that the Respondent used proper appraisal practice in valuing the subject property for tax year 2003.

4. The Respondent properly used comparable sales that occurred within Four Mile Ranch 4038 within the applicable data-gathering period. All of the comparable sales used by the Respondent occurred south of County Road 102. The Board determined that the Respondent's

Respondent occurred south of County Road 102. The Board determined that the Respondent's adjustments were proper. There was conflicting testimony regarding the condition of the easement. Due to the rope courses developed on the adjacent parcels, the easement is in better condition than it may have been in prior years. For these reasons, the Board agrees that the Respondent properly valued the subject property on the lower end of the range.

5. Based on all of the evidence and testimony presented, the Board affirms Respondent's 2003 assigned value of \$35,300.00.

**ORDER:**

The petition is denied.

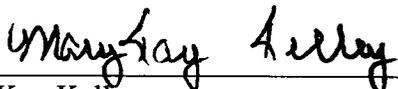
**APPEAL:**

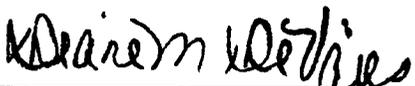
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 4<sup>th</sup> day of August 2004.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
MaryKay Kelly

  
\_\_\_\_\_  
Diane M. DeVries

This decision was put on the record

**AUG 04 2004**

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

  
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Penny S. Lowenthal

