

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>THOMAS D. MC FARLAND,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GILPIN COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Thomas D. McFarland Address: 444 Aspen Lane Golden, Colorado 80403 Phone Number: (303) 277-0202 E-mail: tmcf100@aol.com</p>	<p><b>Docket Numbers: 42992 and 42993</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 13, 2004, Karen E. Hart and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by James J. Petrock, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**(Gilpin County Schedule Nos. R000958 and R000706)**

Petitioner is protesting the 2003 actual value of the subject property, which is comprised of two parcels. Schedule No. R000706 is a 1.438-acre parcel, Schedule No. R000958 is a 5.040-acre parcel with a seasonal cabin. The subject parcels are adjoining.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that Schedule No. R000706 is an illegal tract of land and has no value. Schedule No. R000958 is a remote cabin located on five acres and one mile from a maintained road. The cabin contains about 500 square feet. It has no electricity or water and is serviced by an outhouse. The cabin has little to no worth and the land value is only \$25,000.00.

### **Respondent:**

Respondent contends that Schedule No. R000706, the 1.438-acre illegal tract, has value and is adjacent to Petitioner's improved parcel, Schedule No. R000958. At no expense to Petitioner, the parcels could be combined. Respondent contends Schedule No. R000958, which is the 5.040-acre parcel with the cabin, has been properly valued.

## **FINDINGS OF FACT:**

1. The Board granted a motion to consolidate Docket Numbers 42992 and 42993.
2. Mr. Thomas D. McFarland, Petitioner, presented the appeal on his own behalf.
3. Mr. McFarland did not present any comparable sales or a market approach for either parcel under protest.
4. Regarding Schedule No. 000706, Mr. McFarland testified the 1.438-acre parcel has a bizarre shape; it is about 450 feet long and about 100 feet at its widest part. It is surrounded by the Arapaho National Forest and has no access from anywhere except the adjoining parcel, which he owns. Access to the subject property requires a four-wheel drive vehicle. Distance from a maintained road is about one mile and there is no winter access; the permit used for access could be pulled at any time. Mr. McFarland testified that even if this parcel were combined with Schedule No. R000958, it would not add value. By "branding" it as an illegal tract, it has no value.
5. Regarding Schedule No. 000958, Mr. McFarland testified that the cabin, built in 1977, is home made. It was constructed from trees located on the property. Mr. McFarland spent \$1,500.00 for the roof boards, four windows and the door. It is a rough cabin which measures 20' x 25' and includes a loft. The cabin does not have a bedroom, running water or electricity and the outhouse is about 200 feet away.
6. In cross-examination, Mr. McFarland testified that he had no sales data of his own. Referring to Respondent's Exhibit 2, page 2, Mr. McFarland verified that this was a building permit for his cabin but that he does not remember giving the County an estimated cost of \$24,840.00 for the cabin. Mr. McFarland testified that this could be a replacement cost value and that the date on this form is five years after the cabin was built; so it could be a 1982 cost figure. Mr. McFarland

testified that he has a forest service access permit which is used primarily in the summer. His property is surrounded by forest land and he cannot get a septic truck or cement truck to his property. He is aware of the provisions for Gilpin County's boundary line elimination and their \$500.00 incentive but has declined to combine the two parcels.

7. Upon questions from the Board, Mr. McFarland testified that Gilpin County's boundary line elimination process simply consolidates the parcels and he does not know why he should do this. He uses a wood stove for heat and a generator for electricity.

8. Petitioner is requesting 2003 actual values as follows:

<u>Docket No.</u>	<u>Schedule No.</u>	<u>Actual Value</u>
42992	R000706	\$ 1.00
42993	R000958	\$25,000.00

9. Respondent's witness, Tony Peterson, Director of Community Development in Gilpin County, oversees planning and zoning. Mr. Peterson testified that there is no charge to eliminate the lot line but that it may not qualify for the \$500.00 incentive. The smaller parcel is illegal due to Senate Bill 35 but would be eligible for combination with the adjoining parcel.

10. Respondent's witness, Ron Benko, General Certified Appraiser with the Division of Property Taxation (DPT), testified that he was the lead land appraiser for Gilpin County. As to the methodology used to value the 1.438-acre vacant parcel, Mr. Benko testified that he applied the median price for land sales in Gilpin County and that the typical value was \$12,500.00 per acre. Differences in view, topography and accessibility resulted in adjustments of between 45 and 50 %. Based on the market approach, the resulting value was higher than that which is currently assigned. As it stands, this parcel would not qualify for a building permit, but it would still not make it worthless.

11. Regarding Schedule No. R000958, Respondent's witness presented 150 improved sales to establish a price per square foot value. A 25% obsolescence adjustment was given for lack of utilities since the subject has no plumbing or electricity. Any differences in access in the comparable sales would be reflected in their sales price. Only one sale was similar to the subject. The improvement was similar in size with 576 square feet, had no plumbing, heating or bathroom, and was built in 1949. It is located on one acre with a better access dirt road. Mr. Benko described it as a shack built of tar paper. It sold on June 4, 2001 for \$56,000.00 but it is located in a subdivision. Two other sales were also considered. One property with a 400 square foot structure with a bathroom sold for \$90,000.00. It was built in 1965 and is located in a subdivision. The other property sold for \$100,000.00 and had a half bath but no heat and was not located in a subdivision.

12. Upon questions from the Board, Mr. Benko testified that he had no data on the three sales. He used adjustments of 10% for plumbing, 10% for electrical and 5% for heat. He testified

that no access discount was given because he could not locate the subject when he attempted a field inspection. The sale he placed most weight on had a cabin of very poor quality.

13. Respondent assigned actual values to the subject property for tax year 2003 as follows:

<u>Docket No.</u>	<u>Schedule No.</u>	<u>Actual Value</u>
42992	R000706	\$ 2,000.00
42993	R000958	\$58,000.00

## **CONCLUSIONS:**

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

2. With regard to the 1.438-acre tract, Schedule No. R000706, the Board does not believe that it is worth only \$1.00 simply because it is described as an illegal tract and cannot be built upon. In the absence of any supporting documentation, the Board could give little weight to Petitioner's requested valuation of this tract. The Board also notes that this parcel could be adjoined to the adjacent parcel at no cost to Petitioner, which gives the parcel value as part of an assemblage.

3. Respondent testified to the methodology used to value the 1.438-acre parcel by presenting all of the land sales that occurred in Gilpin County within the base period to calculate a typical value of \$12,500.00 per acre. Respondent testified that consideration was given for view, topography and access. The Board was convinced that the value assigned is appropriate.

4. With regard to the improved 5.040-acre parcel, Schedule No. R000958, again, the Board could give little weight to Petitioner's valuation testimony as no closed sales of similar properties were presented. Colorado Statutes require that residential property be valued using the market approach.

5. Respondent presented 150 improved sales to form a price per square foot for the subject 5.04-acre parcel. Although this may not be the preferred method to form an opinion of value, the Board was persuaded that it had merit. The Board also considered Respondent's testimony with respect to three sales which were most similar to the subject. Even though Respondent admitted certain data was lacking, Respondent attempted to apply adjustments. The Board was convinced that one of Respondent's sales, described as a shack that sold for \$56,000.00, was most similar to the subject and supports Respondent's assigned value.

6. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned values as follows:

<u>Docket No.</u>	<u>Schedule No.</u>	<u>Actual Value</u>
42992	R000706	\$ 2,000.00
42993	R000958	\$58,000.00

**ORDER:**

The petition is denied.

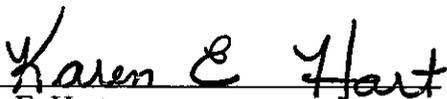
**APPEAL:**

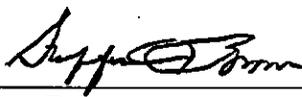
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 30<sup>th</sup> day of June 2004.

**BOARD OF ASSESSMENT APPEALS**

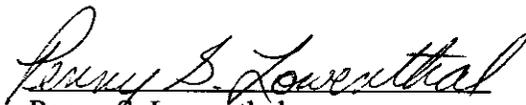
  
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Karen E. Hart

  
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Steffen A. Brown

This decision was put on the record

**JUN 29 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

