

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHARLES MICHAEL MILLER,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Larry Hoppe Address: 1900 Colorado Blvd. Denver, Colorado 80220</p>	<p>Docket Number: 43069</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 30, 2004, Karen E. Hart and Judee Nuechter presiding. Petitioner was represented by Larry Hoppe. Respondent was represented by Eugene Mei, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**20321 Buffalo Creek Road, Pine, Colorado
(Jefferson County Schedule No. 034433)**

Petitioner is protesting the 2003 actual value of the subject property, a single-family residential dwelling located at 20321 Buffalo Creek Road, Pine, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued. The subject property is a summer home with no electricity or water.

Respondent:

Respondent contends that the property has been correctly valued using the market approach.

FINDINGS OF FACT:

1. Larry Hoppe, co-owner, appeared as a witness and presented the appeal on behalf of Petitioner.

2. Petitioner presented no comparable sales.

3. Mr. Hoppe testified that the comparables utilized by the Respondent are smaller in size than the subject. The Pike National Forest surrounds the subject property and approximately half of the land was burned in the Hayman Fire. The subject property is located in the middle of the area devastated by the Buffalo Creek Fire, the High Meadow Fire, and more recently, the Hayman Fire. A generator is used to produce electricity and they have no potable water. They do not have a well but utilize a gravity fed spring that goes to a storage tank. The well has been nearly dry the past couple of years.

4. The Petitioner's witness testified that Respondent's Comparable Sale 4 has electricity, although that was not indicated in their appraisal. He spoke to the owner who indicated that the comparable property is occupied 365 days a year. Both properties are located on Forest Service Road 543, which is not maintained by the forest service or the county. The road is maintained by the homeowners and is closed to vehicular traffic except by the homeowners. There is no winter access to the property.

5. Mr. Hoppe testified that there is no electrical service and no conventional heat source to the cabin. There is very limited protection from the sheriff's office.

6. Mr. Hoppe testified that the subject was built in 1931 as a log cabin. The interior is beaverboard with no insulation. The barn burned as a result of the fire in 1996 and their insurance was cancelled in 2001. The subject property is not currently insured. Petitioner testified that one insurance company would charge a \$3,000.00 premium to insure the structure, but would not provide coverage for contents due to the location of the subject property.

7. The Petitioner believes the assessed value is based on the acreage, the size of the dwelling and its appeal. The Hayman Fire and subsequent flooding have changed the desirability of the subject property due to a drainage problem. He does not believe that any properties are comparable to the subject and therefore, did not present any comparable sales.

8. During cross-examination, Mr. Hoppe testified that Petitioner's requested value is not based on comparable sales; it is an arbitrary figure.

9. During questions from the Board, Mr. Hoppe testified that there might be some winter access to the property depending on the snow level.

10. Petitioner is requesting a 2003 actual value of \$125,480.00 for the subject property.

11. Respondent's witness, Mr. David D. Niles, a Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$237,500.00 for the subject property based on the market approach.

12. Respondent's witness presented four comparable sales ranging in sales price from \$151,000.00 to \$179,900.00 and in size from 1,054 to 1,562 square feet. After adjustments were made, the sales ranged from \$216,480.00 to \$259,890.00.

13. Mr. Niles testified that there is a main cabin in addition to a second cabin on the property. He tried to contact the owner for an interior inspection. Instead, he performed a field check since the owner appeared reluctant to allow an interior inspection.

14. Mr. Niles testified that the subject is located on a road that has been closed to the public since the Buffalo Creek fire. The Buffalo Creek Road is an access via Buffalo Creek with three locked gates and is controlled by the forest service. The roads are poorly maintained. Redskin Creek Road is the other access from Buffalo Creek with a locked gate at the Buffalo Creek Road intersection. It appears to be a well-maintained road and is open in the winter, although it is not widely traveled.

15. The witness testified that the subject property was built in 1932 and is a well-constructed log cabin. The second structure appears to be a guest cabin. There are 22.015 acres of land located under a large rock outcropping. County records indicate a bathroom and a well on the property, although he was not able to verify this information. The same records also show no electrical service to the cabins but a generator that produces electricity.

16. Mr. Niles testified that he applied a \$7,500.00 adjustment for lack of well and utilities and a 20 percent adjustment for the subject's limited access and functional obsolescence. He performed a paired sales analysis to determine the value of the subject's excess land at \$4,369.00 per acre.

17. The witness testified that Respondent's Comparable Sale 4 is the most influential sale as it is located on the same road with the same neighborhood amenities as the subject property. This comparable sale has electricity, which was considered in the depreciation adjustment of \$26,600.00.

All of the comparable sales are located on non-county maintained roads and were considered below average quality.

18. Respondent's witness testified that fire and police protection for the comparables is superior to the subject due to its remote location. A location adjustment is included in the depreciation adjustment of 20 percent. He did not consider the lack of insurance on the subject property.

19. During cross-examination, Mr. Niles testified that the \$7,500.00 adjustment for the lack of a well is included in the land value. All of the comparable sales have wells and septic systems. The subject also has a septic system. All of the comparable sales are year round properties, which is considered in the 20 percent depreciation adjustment. The second cabin is considered to be a garage as indicated in Respondent's appraisal report.

20. Respondent assigned an actual value of \$191,320.00 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 Respondent provided a well-documented appraisal report with appropriate adjustments for limited access, and lack of electrical service and a well.

3. Petitioner presented no comparable sales to support the requested value. Petitioner also did not present any adjustments to Respondent's comparable sales to indicate that the subject property value should be reduced.

4. The Respondent's appraisal estimates the market value of the subject property at \$237,500.00, although the assigned value was \$191,320.00. Respondent's Comparable Sale 4 received a 20 percent functional obsolescence adjustment even though it had the same access as the subject property, which would typically indicate a smaller adjustment, and subsequently, a higher adjusted value than the Respondent indicated. The Board believes that Respondent properly considered the unique characteristics of the subject property.

5. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$191,320.00 for the subject property for tax year 2003.

ORDER:

The petition is denied.

APPEAL:

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 29th day of July 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Judee Nuechter
Judee Nuechter

This decision was put on the record

JUL 28 2004

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

Penny S. Lowenthal
Penny S. Lowenthal

