

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID P. SPENCER,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 44021</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 21, 2005, Diane M. Devries and Steffen A. Brown presiding. Petitioner was represented by David D. Schlachter, Esq. Respondent was represented by Franklin J. Celico, Esq. Petitioner is protesting the 2004 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1441 Ruby Road, Silverthorne, Colorado
(Summit County Schedule No. 3906009)**

The subject property is a 4.298-acre parcel that was formerly known as Lot 9 of the Ruby Ranch Subdivision.

FINDINGS OF FACT:

1. Petitioner owns the property formerly identified as Lot 6 and Lot 9 of the Ruby Ranch Subdivision. A Lot Line Vacation Resolution recorded on July 28, 2003, merged Lot 6 and Lot 9 into a single lot now identified as Lot 6.
2. Petitioner contends that the value of the former Lot 6 and the former Lot 9 are at issue. The Board disagrees. Only the valuation of the former Lot 9 is properly before the Board, as a decision from the Summit County Board of Equalization for the former Lot 6 was not included

with the Petition to the State Board of Assessment Appeals. In addition, the Board has determined that the District Court's Order for Exclusion from the Willow Brook Metropolitan District requires the lots to be valued separately, as the Order pertains solely to the former Lot 9.

3. Petitioner maintains that the subject property should be taxed as open space because nothing can be built on the site. For the purpose of clarification, the terms open space and vacant land are not synonymous. The open space designation is based on clearly delineated policies and restrictions and must be approved by the appropriate local, state or federal governmental entity. The Board does not have the authority to designate the subject property as open space. For tax year 2004, the valuation for assessment of property classified as vacant land is 29% of the property's actual value. The subject property was classified as residential. The valuation for assessment of property classified as residential is 7.96% of the property's actual value.

4. Petitioner concluded that the value of the subject property should not exceed \$6,000.00 based on the comparable sales presented in Petitioner's Exhibit 13. The Board placed little weight on Petitioner's comparable sales. None of the sales were adjusted to reflect differences in physical characteristics, location, unit density, or time trending, and insufficient data was presented to extrapolate the sales prices of the components of the improved properties.

5. Petitioner requested a 2004 actual value of \$6,000.00 for the subject property.

6. Respondent presented an indicated value of \$265,424.00 for the subject property based on the market approach.

7. Respondent presented three comparable sales ranging in sales price from \$300,000.00 to \$445,000.00 and in size from 4.93 to 8.22 acres. After adjustments for time, size, topography and unit density, the sales ranged from \$403,424.00 to \$473,178.00 or from \$53,647.00 to \$62,923.00 per acre.

8. Respondent assigned an actual value of \$265,424.00 to the subject property for tax year 2004, which equates to \$61,755.23 per acre. The value assigned to the subject property for tax year 2004 is within the range indicated by Respondent's comparable sales.

CONCLUSIONS OF LAW:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2004.

ORDER:

The petition is denied.

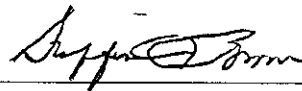
APPEAL:

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

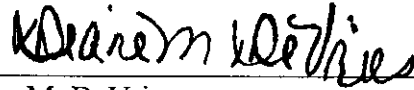
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 31st day of December 2005.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

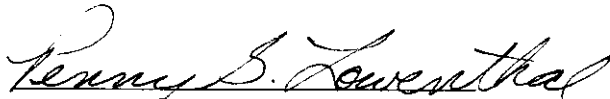


Diane M. DeVries

This decision was put on the record

DEC 30 2005

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


Penny S. Lowenthal