

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LEON MOYER,</p> <p>v.</p> <p>Respondent:</p> <p>ALAMOSA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 47938</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 16, 2009, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner, Leon Moyer, appeared pro se. Respondent was represented by Jason T. Kelly, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**19417 Ridge Drive, Alamosa, Colorado
(Alamosa County Schedule No. 541708011031)**

The subject is being valued as vacant land. It is a 1.26-acre residential parcel located in Unit 2 of the Deer Valley Meadows subdivision. As of the date of value, the site had no utilities, well or septic service.

Petitioner is requesting a 2007 actual value of \$850.00 for the subject property based on the original purchase price paid at public auction on September 20, 2004. Petitioner presented 18 comparable sales. The Board is convinced that Petitioner’s Sales 2, 8, 9, 14, 17 and 18 did not qualify as arm’s-length sales but represented quit claim deeds, deeds of trust or other non-qualifying documents. Sale 6 is believed to be non-qualifying as a \$0.00 document fee was shown. Sales 7, 13, 16 and 19 occurred between 1990 and 1997, well outside the extended base period. Sales 10 and 11 included the same lots transacting twice on September 22, 2005. The Board is not convinced that this represented an arm’s-length transaction. Sale 12 included the bulk purchase of 19 lots and is

therefore not considered comparable. The Board will give further consideration to Petitioner's Sales 1, 3, 4 and 5.

Respondent presented an indicated value of \$4,500.00 for the subject property based on the market approach.

Respondent presented six comparable sales ranging in sales price from \$4,000.00 to \$4,750.00 with a median sales price of \$4,500.00. No adjustments were made to the comparable sales. All were located in Unit 1 of Deer Valley Meadows.

Respondent assigned an actual value of \$4,500.00 to the subject property for tax year 2007.

On August 20, 2009, the Board issued an Order Retaining Jurisdiction in this case, requesting additional information from Respondent regarding the location, size and distance to utilities for Respondent's sales as well as Petitioner's Sales 1, 3, 4 and 5. On September 22, 2009, the Board granted Petitioner's Motion for Extension of Time, requiring Respondent to provide Petitioner with a copy of the map sent to the Board by September 25, 2009, and granting Petitioner time to respond by October 2, 2009. On September 30, 2009, the Board received Petitioner's Motion for BAA to Order Correct Map. While Petitioner contends that the map was incorrect, Petitioner provided no data to support map corrections. In the order issued on September 22, 2009, Petitioner was granted an extension of time to respond to any information provided by Respondent; however, Petitioner provided no data to prove Respondent's information was incorrect. Petitioner's Motion for BAA to Order Correct Map is denied. The Board is satisfied that Respondent met the obligations outlined in the Order Retaining Jurisdiction issued August 20, 2009.

The Board was convinced that the subject property was incorrectly valued for tax year 2007.

Petitioner is requesting a value of \$850.00 for the subject property based on the original purchase price at public auction. The Board is not convinced that \$850.00 was the actual value of the property for tax year 2007. Section 39-1-104 (10.2)(d), C.R.S. states:

For the purposes of this article and article 9 of this title, "level of value" means the actual value of taxable real property as ascertained by the applicable factors enumerated in section 39-1-103 (5) for the one-and-one-half-year period immediately prior to July 1 immediately preceding the assessment date for which the administrator is required by this article to publish manuals and associated data. Beginning with the property tax year commencing January 1, 1999, if comparable valuation data is not available from such one-and-one-half-year period to adequately determine such actual value for a class of property, "level of value" means the actual value of taxable real property as ascertained by said applicable factors for such one-and-one-half-year period, the six-month period immediately preceding such one-and-one-half-year period, and as many preceding six-month periods within the five-year period immediately prior to July 1 immediately preceding the assessment date as are necessary to obtain adequate comparable valuation data. Said level of value shall be adjusted to the final day of the data-gathering period.

For tax year 2007 the data gathering period is January 1, 2005 through June 30, 2006. The sale of the subject property at public auction on September 20, 2004 is prior to the data gathering period; therefore the Board gives this sale no weight.

The Board has reviewed data regarding size and distance to power for four of the sales presented by Petitioner and the six sales presented by Respondent, as summarized in the following chart:

<i>Unit</i>	<i>Block</i>	<i>Lot</i>	<i>Price</i>	<i>Size</i>	<i>\$/Acre</i>	<i>Distance to Power</i>
1	B	26	\$4,600	2.02	\$2,277	at site
1	C	17	\$4,000	2.36	\$1,695	within 1/2 mile
1	G	39	\$4,500	2.02	\$2,228	at site
1	G	33	\$4,400	2.01	\$2,189	at site
1	H	7	\$4,750	2.33	\$2,039	within 1/4 mile
1	M	27	\$4,500	1.74	\$2,586	within 1/4 mile
Respondent's Average					\$2,169	
1	J	9	\$1,900	1.00	\$1,900	at site
1	L	8	\$3,300	1.03	\$3,204	at site
2	AC	1&2	\$5,400	2.27	\$2,379	within 1/2 mile
2	M	22	\$1,000	1.03	\$971	within 1/4 mile
Petitioner's Average					\$2,113	
Overall Average					\$2,147	

An analysis of the data indicates an overall average selling price of \$2,147.00 per acre. Petitioner's sales indicate a slightly lower average of \$2,113.00 per acre and Respondent's sales indicate a slightly higher average of \$2,169.00 per acre. Despite Petitioner's testimony, the distance to utilities is not a determining factor, as Petitioner's comparable sale located within a quarter mile of utilities sold for a lower price per acre than the sale located within a half mile. Based on the comparable data provided by both parties, the Board concludes to a value of \$2,147.00 per acre for the subject. Based on the subject's size, at 1.26 acres, the value of the subject should be reduced to \$2,705.00.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$2,705.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$2,705.00.

The Alamosa County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

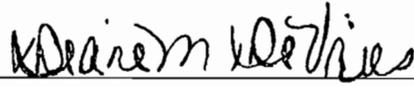
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

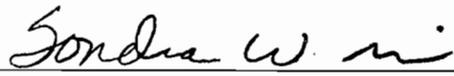
Section 39-8-108(2), C.R.S.

DATED and MAILED this 5th day of November 2009.

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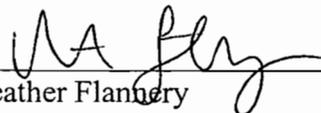


Diane M. DeVries



Sondra W. Mercier

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



Heather Flannery

