

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 48065

Petitioner:

DONNA AND ANTON STICH,

v.

Respondent:

ROUTT COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on November 12, 2008, Debra A. Baumbach and MaryKay Kelley presiding. Mr. Anton G. Stich appeared pro se for Petitioners. Respondent was represented by Joanne Eldridge, Esq. Petitioners are protesting the 2007 actual values of the subject properties.

PROPERTY DESCRIPTION:

The subject properties are multiple vacant lots in the Horseback Subdivision at Stagecoach further described as follows:

Lot No.	Acres	Routt County Schedule No.	Lot No.	Acres	Routt County Schedule No.
4	0.88	R0355984	111	0.67	R6552128
9	0.73	R3551694	112	0.65	R3551786
94	0.89	R6552120	174	0.83	R6552141
95	0.78	R6552121	175	0.7	R3551330
96	0.55	R6552122	176	0.69	R6552142
97	1	R6552123	177	0.71	R6552143
98	1.21	R6552124	188	0.74	R3551896
100	1.16	R6552125	189	0.88	R0355980
101	1.09	R6552126	Part of Common Area 2	0.5	R8168241
110	0.58	R3551864			

Respondent assigned a total value of \$472,500.00 to the subject properties for tax year 2007: \$12,500.00 for the common area lot, \$35,000.00 for Lot 4, and \$25,000.00 each for the remaining lots. Petitioners are requesting a total value of \$203,500.00 for the subject properties: tax exempt status for the common area lot, a value of \$25,000.00 for Lot 4, and a value of \$10,500.00 for each of the remaining lots.

The parties agreed to a stipulated value of \$25,000.00 for Schedule No. R3551694 (Lot 9 Horseback at Stagecoach). The Board concurs with the stipulation.

The remaining subject properties are multiple vacant lots in the Horseback Subdivision, which is comprised of 249 platted lots from 0.4 to 1.23 acres. Gravel roads run throughout the subdivision. Electricity is available, although only Lot 4 is adjacent to power. The subject properties are defined as follows: 16 typical lots (not adjacent to power), a common area lot, and Lot 4 (adjacent to power).

The history of the Stagecoach development dates to the early 1970's, at which time construction of the Stagecoach Ski Area was anticipated (although never built). The Woodmoor Corporation acquired land with plans for multiple subdivisions and mixed residential uses. In 1974 it filed for bankruptcy. There are no central utilities. Electricity is available to lots within the subject subdivision, but the cost to access varies widely based on location. There is no central water or sewage system.

Petitioners argued that lack of infrastructure has had the greatest impact on value. Based on research, the cost of water and sewer lines to Horseback is \$13,700,000.00 or \$54,000.00 per lot if installed at the same time. A five-acre site is required by the county for installation of a septic system, resulting in assemblage. A private party purchased 50% of Horseback's lots, marketing them as five-acre parcels. Sewage vaults are permitted by way of an agreement between the county and the water/sewer district and require pumping at \$200.00 to \$275.00 per event. The State Board of Health reports them to have "limited use occupancy," and district guidelines limit their numbers to total acreage divided by five or 62 for Horseback. Petitioners report that the district, concerned with the potency of the effluent and related operational costs, is considering a 50% reduction in that number. Petitioners argued that most purchasers are unaware of the five-acre requirement for a septic system, the limitations of a vault system, and the related impact on value and future impact on sale.

Respondent describes the subdivision as having accessible electric service, private self-contained water and sewer systems (63 vault system permits remain available), and adequate roads.

Sixteen typical sites (not adjacent to electrical power)

Based on the market approach, Mr. Stich presented 26 similar-sized Horseback sales without electrical power and applied the following adjustments to their sales prices: \$2,000.00 for view, \$5,000.00 for proximity to County Road 16, and \$3,000.00 for proximity of electricity. The mean adjusted sale price was \$15,800.00. Petitioners argued that 2007 actual values should not have increased from the prior year's actual values (\$10,500.00 each) due to the substantial costs in acquiring utilities and related impact on value.

Based on the market approach, Respondent's witness presented an indicated value of \$25,000.00 based on 12 comparable Horseback sales without adjacent electric service. The sales ranged in price from \$9,000.00 to \$25,500.00 and in size from 0.44 to 0.75 acre. Adjustments were made for time trending, resulting in an adjusted range from \$21,900.00 to \$30,700.00, the median being \$25,650.00. The witness reconciled to a value of \$25,000.00 for each of the typical 16 lots not adjacent to electric service.

Respondent's witness, Mr. Will Wiggins Registered Appraiser with the Routt County Assessor's Office, applied a 7.7% per month time adjustment to market approaches for all subject lots with the exception of the common area lot. Eighty vacant land sales within the southern portion of the greater neighborhood ranging in sales price from \$9,000.00 to \$47,000.00 were analyzed. The sales ratio model was used, dividing sales prices by the prior year's actual value. The witness reported two double sales but did not provide any specific data in support of the time adjustments.

The Board is convinced that wells and sewage vault systems are permitted and that guidelines are in effect for potential future installation of central water and sewage systems. The Board is convinced that vault system permits were available within the base period allowing for subsequent residential construction. However, the Board acknowledges the possibility of market resistance due to lack of central systems, concerns about the vault system, and distance to electrical power.

The Board recognizes some appreciation in value during the base period but considers Respondent's time trending analysis excessive due to the larger marketing area from which data was drawn and the methodology used in establishing market conditions.

The Board relied on Respondent's 12 comparable sales and 17 of Petitioners' 26 sales which were not listed as close to power. The Board finds that these sales represent typical lots not adjacent to power. These sales fall within the following ranges: \$9,000.00 to \$11,250.00 in 2004; \$10,000.00 to \$19,000.00 in 2005; and \$23,000.00 to \$25,500.00 in 2006. This range reflects changes in market conditions and show that some time adjustment is warranted. Petitioners' adjustments for view and County Road 16 proximity were not supported by market data. The Board concludes to a value of \$15,000.00, mid-range.

Lot 4 (adjacent to electrical power)

Petitioners contended that the value for Lot 4 should reflect premiums for its elevated view, adjacency to power, and proximity to County Road 16. Value was estimated at \$25,000.00 based on comparison with typical lots and the September 2004 purchase price of \$20,000.00

Mr. Wiggins presented an indicated value of \$35,000.00 based on five comparable Horseback sales adjacent to electrical service. They ranged in sales price from \$15,000.00 to \$29,500.00 and in size from 0.7 to 1.1 acres. Adjustments were made for time trending, resulting in an adjusted range from \$29,900.00 to \$38,500.00, the median being \$34,000.00. The analysis suggested a \$10,000.00 premium for location adjacent to underground electric service.

The Board agrees with Respondent's analysis of a premium for adjacency to electric power. This site also enjoys an elevated, panoramic view of the valley. The Board finds that this site is superior to the typical site, and after adjustments for adjacency to electric power and view, estimates its value at \$35,000.00.

Common Area Lot (0.5 acre)

Petitioners are requesting tax exempt status for the common area lot, which is one of twelve. Common area lots can only be used for a trail easement or for meeting the county's requirement for a septic field, which reportedly will not be constructed. No improvements can be built on common area lots unless they are assembled for five-acre parcels and petitioned for re-zoning. Prohibited from building an improvement, Petitioners request tax exempt status. They also note that 2007 assigned values for the other eleven common area lots range from \$10.00 to \$40.00 in comparison with the subject lot's assigned value of \$12,500.00.

Respondent's witness argued that the value of all common area lots lies in their contributory value to assemblage as five-acre parcels which would qualify for re-zoning, construction of a septic system, and residential improvements. He presented three comparable sales, each one an assemblage purchased by the same buyer from three different sellers. The assemblages totaled 5.17, 5.11, and 5.21 acres, and each included common area lots. The witness concluded to a value of \$25,000.00 per acre for an indicated value of \$12,500.00 for the subject's 0.5 acre common area parcel.

Petitioners' request for tax exempt status is not properly before the Board. Such requests must first be made to the Division of Property Taxation and must adhere to statutory requirements for exemption. The Board agrees that the highest and best use of common area lots lies with assemblage and agrees with Respondent's method of valuation in the absence of any other data.

Conclusion

Petitioners presented sufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2007. Recalculation of the subject lots is as follows:

Common Area Lot	\$ 12,500.00
16 typical lots (\$15,000.00 each)	\$240,000.00
Lot 4	\$ 35,000.00
Lot 9 (stipulation by parties)	<u>\$ 25,000.00</u>
TOTAL VALUE	\$312,500.00

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject properties to \$312,500.00.

The Routt County Assessor is directed to change his 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 CRS § 24-4-106(11) (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 CRS § 24-4-106(11) (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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 18th day of December 2008.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

DEC 18 2008

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

Heather Flannery
Heather Flannery

