

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THOMAS DE PAULO,</p> <p>v.</p> <p>Respondent:</p> <p>COSTILLA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48115</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 13, 2008, Debra A. Baumbach and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Edwin J. Lobato, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**White Horse Mesa Section D Block 40 Lot 1
(Costilla County Schedule No. 1213460)**

The subject property is a 3.84-acre vacant land parcel located in Section D of the White Horse Mesa Subdivision. The subject property is vacant rural property.

Petitioner is requesting a 2007 actual value of \$4,000.00 for the subject property. Petitioner testified the subject does not have access to utilities or water. Access to the site is limited due to the topography which makes transporting water difficult. Furthermore, the site had been listed for sale with no interested parties.

Respondent presented an indicated value of \$18,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$12,000.00 to \$18,500.00 and in size from 2.62 to 2.93 acres. After adjustments were made, the sales ranged from \$17,587.78 to \$24,245.73. The sales were adjusted for size only. All sales occurred with Section D Block 40 of the White Horse Mesa Subdivision.

Respondent assigned an actual value of \$15,900.00 to the subject property for tax year 2007.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007.

All real property in Colorado is valued using the market, cost, and income approaches to value. CRS § 39-1-103(5)(a). The cost approach is not appropriate for the subject property because it is vacant land; since the subject property is not an income producing property, the income approach is also not appropriate. Therefore the value of the subject property should be determined using the market approach. The market approach considers confirmed, arm's-length sales of comparable properties. *See 3 Assessor's Reference Library: Land Valuation Manual 3.26 (2006)*. For tax year 2007, these sales should occur during the data gather period from January 1, 2005 through June 30, 2006. *See CRS § 39-1-104(10.2)(d)*.

The Board determined that there has been sales activity during the data gathering period for tax year 2007. Respondent properly used arm's-length, comparable sales that occurred during the required data gathering period and made proper adjustments to those sales.

The Board cannot consider listings of properties to determine an actual valuation for ad valorem purposes.

ORDER:

The petition is denied.

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 26th day of September 2008.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Diane M. DeVries
Diane M. DeVries

This decision was put on the record

SEP 26 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

