

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 48194

Petitioner:

LAWRENCE & KATHRYN BANNING,

v.

Respondent:

CHAFFEE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 30, 2008, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner, Lawrence Banning, appeared pro se. Respondent was represented by Jennifer A. Davis, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**28585 County Road 304, Buena Vista, Colorado
(Chaffee County Schedule No. R327115200803)**

The subject is a 2,440 square foot single family home on 18.07 acres. The home was constructed by the owner in 1973 using home-made brick and scrap items. The condition was reported as "badly worn" with no improvements made since construction.

Petitioners contend that the land value assigned to the subject is inequitable compared to adjacent mining claim parcels. Petitioners further contend that Respondent gave inadequate downward adjustment for the inferior access, location, construction quality, and condition of the subject compared to comparable sales.

Petitioners are requesting a 2007 actual value of \$152,359.00 for the subject property.

Respondent presented an indicated value of \$260,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$224,000.00 to \$334,000.00 and in size from 1,955 to 2,207 square feet. After adjustments were made, the sales ranged from \$243,162.00 to \$292,065.00. Respondent's witness concluded in the Real Property Restricted Appraisal Report that the most weight was given to Comparable Sales 1 and 3, which would indicate an adjusted range of \$243,162.00 to \$245,960.00. However, Respondent's witness concluded to a value well above that range, at \$260,000.00.

Respondent assigned an actual value of \$244,216.00 to the subject property for tax year 2007.

While the Board understands that the subject's access, location, construction quality, and condition are inferior to many properties, the Board finds that Respondent's selected sales represent properties that are similar to the subject for these factors and that proper adjustments were applied. Petitioners did not provide data to support further adjustment. While the Board notes Petitioners' contention that the value placed on the subject's site is inequitable compared to adjacent sites, the Board reviews the total value assigned to the subject property. *See C.R.S. § 39-8-108(1); Cherne v. Board of Equalization of Boulder County*, 885 P.2d 258, 259 (Colo.App. 1994). Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007, at \$244,216.00. The Board did not find the value indicated by the Real Property Restricted Appraisal Report to be reliable, as it was above the range indicated by the most comparable sales.

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 C.R.S. section 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 C.R.S. section 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.

C.R.S. § 39-8-108(2) (2008).

DATED and MAILED this 18th day of July 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries

Sondra W. Mercier
Sondra W. Mercier

This decision was put on the record

JUL 18 2008

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

Heather Heinlein
Heather Heinlein

