

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WEST RIDGE GROUP LLC,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48208</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 30, 2008, James R. Meurer and Karen E. Hart presiding. Petitioner was represented by Phillip Anselmo, an LLC member. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

**Lot 12 and Outlot A of Filing 1 Todd's Town Subdivision
Olathe, Colorado
Montrose County Schedule Nos. R0019268 & R0007200**

The subject properties consist of two contiguous vacant residential lots. Lot 12 is 7,915 square feet in size and Outlot A is 2.34 acres in size.

Mr. Phillip Anselmo testified that Petitioner is a company that develops property as well as other purposes. The subject properties were purchased together with a house and other land sometime from 1999 to 2001. Filing 1 Todd's Town subdivision was filed on August 2, 2005. Although Outlot A is held for future development, Petitioner believes that Outlot A should be valued according to its current use, which is undeveloped vacant residential land. There is no final plat for Outlot A and there are no plans to plat the property in the near future.

Petitioner presented no sales for the Board to consider. Petitioner is requesting a 2007 actual value of \$30,000.00 for each for the subject properties.

Respondent presented the following indicated values for the subject properties, based on the market approach:

Schedule No. R0019268	Lot 12	\$ 30,000.00
Schedule No. R0007200	Outlot A	\$101,790.00

Mr. Harry L. Percival, a Certified Residential Appraiser with the Montrose County Assessor's Office, testified that he performed an assessment analysis for the subject properties. For both parcels, Mr. Percival looked for and analyzed sales that occurred during the 18-month period of January 1, 2005 through June 30, 2006.

Regarding Lot 12, Mr. Percival presented three comparable sales ranging in sales price from \$32,500.00 to \$37,000.00 and in size from 8,750 to 10,500 square feet. No adjustments were made to the sales. All of the sales were located in the City of Olathe. One of the sale properties is adjacent to the subject property and sold for \$35,000.00. As these three sales were the only vacant land sales of standard size lots that occurred in the City of Olathe, he expanded the search to improved sales and abstracted out the improvement value to support his concluded value. Mr. Percival concluded to a value of \$30,000.00 for Lot 12.

Regarding Outlot A, it is ten times larger than Lot 12. It is prime development property and Mr. Percival used sales from other areas of Montrose County as there were no sales of development lots in the City of Olathe. As of the assessment date, he believes Outlot A was in the process of being developed. Dirt work had commenced and there were multiple utility poles installed on the property. The subject is zoned residential.

There were five known sales in the 2 acre to 4.99 acre size range that occurred during the study period. The sales were vacant parcels sold for the intent of being developed. Some of the sales were in the City of Montrose and some were in the unincorporated area of Montrose County. According to Mr. Percival, developed lots in Montrose have a higher value than those in Olathe but land for development does not seem to have a value difference. The mean sales price was \$58,773.00 per acre and the median sales price was \$58,808.00 per acre. A 25% reduction was allotted to the subject property as construction of an extension of Allison Avenue is necessary for access. Mr. Percival concluded to a value of \$43,500.00 per acre, for a total of \$101,790.00 for Outlot A. The value is based on the subject property's future development potential.

Respondent assigned actual values to the subject properties for tax year 2007 as follows:

Schedule No. R0019268	Lot 12	\$ 30,000.00
Schedule No. R0007200	Outlot A	\$101,790.00

Petitioner presented sufficient probative evidence and testimony to prove that the subject property, Outlot A, was incorrectly valued for tax year 2007.

Regarding Lot 12, the parties are in agreement and the Board affirms the assigned value of \$30,000.00

Regarding Outlot A, the Board was not convinced that the property should be valued as development land.

“[R]easonable future use is relevant to a property’s current market value [S]peculative future uses cannot be considered in determining present market value.” *Board of Assessment Appeals v. Colorado Arlberg Club*, 762 P.2d 146, 153 (Colo. 1988). Insufficient evidence was presented to show Outlot A was in stages of development. The photographs show a dirt pile and some ground utility posts, but there was no convincing evidence as to what the dirt pile’s use was, where it came from, or what it was to be used for. There was insufficient evidence as to how long or how many utility posts were installed. There was no proposed plat or commenced construction for the extension of Allison Avenue. Based on all these findings, the Board determined there was insufficient evidence to conclude that a change in use is reasonable and not speculative for tax year 2007. Therefore, Outlot A should be valued according to its actual use, which is a vacant residential lot.

The sales of residential lot properties presented were much smaller than Outlot A. Therefore the Board determined that the value for Outlot A should come from the upper end of the value range.

The Board concluded that the 2007 actual value of Outlot A should be reduced to \$37,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of Schedule No. R0007200, Outlot A, to \$37,000.00.

The Montrose County Assessor is directed to change his records accordingly.

The petition for Schedule No. R0019268, Lot 12, 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 23rd day of September 2008.

BOARD OF ASSESSMENT APPEALS



James R. Meurer



Karen E. Hart

This decision was put on the record

SEP 23 2008

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



Heather Flannery

