

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>JEROLD A. &amp; ARNETTE SCHOUTEN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48272</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 4, 2008, MaryKay Kelley and Diane M. DeVries presiding. Jerold A. Schouten appeared pro se for Petitioners. Respondent was represented by Frank Celico, Esq. Petitioners are protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**250 Arnica Lane, Town of Silverthorne  
Lot 23, Eagles Nest Golf Course Sub #4  
(Summit County Schedule No. 6507704)**

The subject property consists of 0.5397 acres or 23,511 square feet. The subject site is a corner lot and has public water, sewer, utilities, and paved access.

Respondent assigned a 2007 actual value of \$219,217.00, but is recommending a reduction to \$182,915.00. Petitioners are requesting a 2007 actual value of \$147,179.00.

Petitioners introduced an equalization argument but declined to proceed following objection by Respondent. “Our state constitution and statutes make clear that individual assessments are based upon a property’s actual value and that actual value may be determined using a market approach, which considers sales of similar properties.” *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

Petitioners did not present any independent comparable sales, basing the requested value on a review of Respondent's sales.

Mr. Schouten testified that the subject property has a culvert that consumes one-fourth of the property. The diversion ditch runs through the center of the property and with groundwater runoff the stream overflows through a portion of the property. The views are good with the exception of an 8' transformer and guardrail affecting the view. The property is off the main thoroughfare. Further, Mr. Schouten testified that the subject property does not have a golf course view; the view is obstructed with the guardrail and road.

Mr. Schouten believes that Respondent's Sale 3 was most similar to the subject. Respondent's Sale 1 needed further adjustment for no traffic, more secluded, superior view, and easier access. Respondent's Sale 2 required further adjustment for less traffic and easier building envelope. He believed that Sales 2 and 3 are superior lots to the subject.

Petitioners valued the subject property at the low end of Respondent's comparable sales range using \$6.26 per square foot for 23,511 square feet for a total of \$147,179.00.

Respondent presented three comparable sales ranging in sales price from \$175,000.00 to \$211,500.00 and in size from 0.6040 to 0.6799 acre. After adjustments were made, the sales ranged from \$147,259.00 to \$195,322.00 or \$6.26 to \$8.31 per square foot. Value was reconciled to the median of \$7.78 per square foot for a total actual value of \$182,915.00. Respondent adjusted for time and size.

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

The Board agreed that all of the comparable sales are more secluded than the subject and determined that an additional adjustment should be made to reflect the location of the subject. The Board reconciled to the lower end of the range at \$7.00 per square foot for a total actual value of \$164,577.00.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$164,577.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$164,577.00.

The Summit County Assessor is directed to change 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 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).

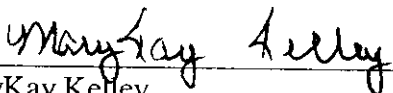
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

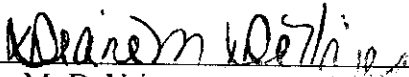
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 2<sup>nd</sup> day of December, 2008.

**BOARD OF ASSESSMENT APPEALS**

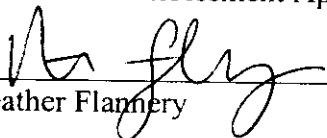
  
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MaryKay Kelley

  
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Diane M. DeVries

This decision was put on the record

**DEC 01 2008**

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

  
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Heather Flannery

