

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JEROLD A. AND ARNETTE SCHOUTEN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48275</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 5, 2008, Diane M. Devries and MaryKay Kelley 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:

**Lot 57 Highlands at Breckenridge – Highlands Park  
(Summit County Schedule No. 6507646)**

The subject property is a 0.81-acre (35,284 square feet) vacant, single-family site located in the Highlands Park subdivision adjacent to the Breckenridge Golf Course. The site has a gentle slope, backs to Highlands Park Open Space, and has a view of mountains to the west.

Respondent assigned a value of \$318,967.00 for tax year 2007 but is recommending a reduction to \$246,635.00. Petitioners are requesting a value of \$218,055.00.

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.

Petitioners considered Sales 2 and 3 to be the best indicators of value, disagreeing with Respondent's use of the median sales price. Mr. Schouten presented an indicated value of \$218,055.00 for the subject property based on the averaged adjusted prices per square foot for Sales 2 and 3 (\$6.18) times the subject's 35,284 square feet.

Petitioners argued that Respondent should not have assigned a premium for the subject's open space: its ground cover is sagebrush, not treed; it does not abut anything of value, such as forest service land; and the golf course to its east is too distant to offer a view. The Board disagrees. The subject's open space ensures that no construction will occur to the rear, thus providing privacy.

Petitioners disagreed with Respondent's "good" view rating for the subject, stating the Ten Mile Range view will be compromised when improvements are built to the west and on the Highlands ridgeline. The Board disagrees. Although construction will impact views to some degree, all sites will be similarly affected.

Petitioners contend that Sale 1 should have been assigned a golf course premium, that despite bordering the course on an angle, it benefits from views on adjacent sites: no fencing is permitted and future homes on adjacent sites will not significantly impact view. The Board agrees with Respondent that improvements will, indeed, impact views of the golf course and that Sale 1 does not have full frontage on the course that adjacent lots enjoy.

Respondent presented an indicated value of \$246,635.00 for the subject property based on the market approach. Three comparable sales were presented, ranging in sales price from \$293,000.00 to \$385,000.00 and in size from 32,234 to 39,640 square feet (0.74 to 0.91 acre). After adjustments were made, the sales ranged from \$189,607.00 to \$322,526.00 or \$5.37 to \$9.14 per square foot. The witness reconciled to the median at \$6.99 per square foot for the subject property.

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

The Board finds that Sale 2 (\$5.37 per square foot) and Sale 3 (\$6.99 per square foot) are most representative of the subject property and concludes to a value of \$6.18 per square foot.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$218,055.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$218,055.00.

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).

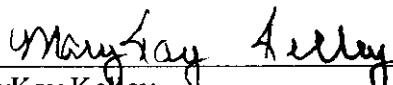
**DATED and MAILED** this 2<sup>nd</sup> day of December, 2008.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
Diane M. DeVries

This decision was put on the record

**DEC 01 2008**

  
\_\_\_\_\_  
MaryKay Kelley

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

  
\_\_\_\_\_  
Heather Flannery

