

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 48276
Petitioner: JEROLD A. AND ARNETTTE SCHOUTEN, v. Respondent: SUMMIT COUNTY BOARD OF EQUALIZATION.	

ORDER

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:

**0660 Lakeview Circle, Silverthorne, Colorado
Lot 13 Hamilton Creek Sub 1
(Summit County Schedule No. 4900027)**

The subject property is a 0.57-acre, vacant, single-family site located in the Hamilton Creek Subdivision. The site is steep and enjoys panoramic views from its elevated location.

Respondent assigned an actual value for tax year 2007 of \$278,796.00. Petitioners are requesting a value of \$245,556.00.

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 contended that views from the building envelope will be impacted by treetops and nearby homes and that the five-home common driveway intersects the subject site, increases traffic, and is a negative marketing factor.

Mr. Schouten considered Sales 2 and 3 to be most like the subject site because of the steepness of their slopes. He agreed with Respondent's reconciliation at \$9.94 per square foot for Sale 2. He adjusted Sale 3 for superior view and lack of a common driveway, reconciling to \$9.84 per square foot. Petitioners' requested value of \$245,556.00 is the average of Sales 2 and 3 applied to the subject's square feet.

Respondent presented an indicated value of \$295,216.00 for the subject property based on the market approach. Three comparable sales were presented, ranging in sales price from \$175,000.00 to \$305,000.00 and in size from 22,215 to 23,958 square feet or 0.51 to 0.55 acre. After adjustments were made, the sales ranged from \$246,921.00 to \$326,513.00 or \$9.94 to \$13.15 per square foot. Value was reconciled at the median of \$11.89 per square foot.

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

The Board is not convinced of any significant negative impact on the subject's view due to treetops or residential improvements. Also, common driveways are not uncommon in this subdivision, and no evidence was presented to convince the Board that they carried negative market impact. Respondent's indicated value supports the assigned value of \$278,796.00.

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 2nd day of December, 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries

MaryKay Kelley
MaryKay Kelley

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.

Heather Flannery
Heather Flannery

