

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MELBY RANCH PROPERTIES, LLC</p> <p>v.</p> <p>Respondent:</p> <p>COSTILLA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48559</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 9, 2008, Karen E. Hart and James R. Meurer presiding. Petitioner was represented by Erich Schwiesow, Esq. Respondent was represented by Edwin J. Lobato, Esq. Petitioner is protesting the 2007 actual value of the subject properties.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

**81 Residential Lots, Wild Horse Mesa Section G
Costilla County, Colorado**

The subject properties consist of 81 residential lots in Section G of the Wild Horse Mesa subdivision. Wild Horse Mesa is located in Costilla County approximately 15 miles south of the town of San Luis and contains a total of approximately 25,000 to 30,000 acres. In the subject Section G, the majority of lot sizes range from one to two acres and this section is adjacent to Sanchez Reservoir which is used for fishing, boating, camping, and other recreational activities. The lots vary in size, view, topography, and proximity to utilities. With the exception of the main access road, all of the roads in the subdivision are dirt and gravel and maintained by the developer. Access to utilities is the responsibility of the individual lot owners.

The Costilla County Schedule Numbers, Block Numbers, and Lot Numbers for the subject properties are as follows:

Costilla County Schedule No.	Block	Lot	Costilla County Schedule No.	Block	Lot
71227880	79A	19	71229790	97	7
71227900	79A	21	71229800	97	8
71227910	79A	22	71229930	97	21
71227920	79A	23	71229950	97	23
71227950	79A	26	71229960	97	24
71227990	79A	30	71229980	97	26
71228010	79A	31	71230020	97	29
71228040	79A	34	71230030	98	1
71228064	79A	36	71230040	98	2
71228070	79A	37	71230140	98	13
71228080	79A	38	71230210	98	20
71228090	79A	39	71230580	100	21
71228120	79A	42	71230680	100	31
71228150	79A	45	71230770	100	40
71228170	79A	47	71231230	102	1
71228180	79A	48	71231240	102	2
71228200	79A	50	71231250	102	3
71228260	79A	56	71231270	102	5
71228270	79A	57	71231290	102	7
71228271	80A	19	71231320	102	10
71228280	80A	20	71231350	102	13
71228310	80A	23	71231370	102	15
71228330	80A	25	71231450	102	23
71228580	80A	50	71231570	102	35
71228641	81A	19	71231660	102	44
71228750	81A	30	71231690	102	47
71228800	81A	35	71231720	102	50
71228810	81A	36	71231990	102	77
71228890	81A	47	71232020	103	2
71229090	95A	12	71232040	103	4
71229130	95A	16	71232720	106	25
71229150	95A	18	71232740	106	27
71229230	95A	26	71232780	106	31
71229370	95A	40	71232830	106	36
71229380	95A	41	71232840	106	37
71229440	95A	47	71232940	106	47
71229480	95A	51	71232980	106	51
71229680	96A	16	71233020	107	3
			71233030	107	4
			71233040	107	5
			71233070	107	8
			71233080	107	9
			71233090	107	10

Based on a market approach, Petitioner presented the following indications of value for the subject lots on a per block basis:

Block	Number of Lots	Petitioner's Value Per Lot
79A	19	\$15,000
80A	5	\$18,000
81A	5	\$20,000
95A	8	\$20,000
96A	1	\$20,000
97	7	\$22,500
98	4	\$17,500
100	3	\$30,000
102	14	\$32,000
103	2	\$20,000
106	7	\$30,000
107	6	\$20,000
	81	

Petitioners presented 32 sales that occurred in Section G during the base period. After eliminating sales involving multiple lots and sales of lots purchased for resale, the sales prices of the comparables ranged from \$15,000.00 to \$65,000.00 with an average sales price of \$33,180.00. These sales are found in the following table:

SCHEDULE NO.	SUBDIVISION	BLOCK	LOT	ACTUAL SOLD PRICE
71228510	Section G	80A	43	\$15,000
71228560	Section G	80A	48	\$22,000
71228680	Section G	81A	23	\$35,000
71228780	Section G	81A	33	\$20,000
71228870	Section G	81A	45	\$40,000
71228930	Section G	94A	24	\$30,000
71229140	Section G	95A	17	\$25,000
71229510	Section G	95A	54	\$20,000
71229550	Section G	96A	3	\$16,000
71229670	Section G	96A	15	\$15,000
71229700	Section G	96A	18	\$22,500
71229710	Section G	96A	19	\$24,000
71229740	Section G	97	2	\$25,000
71230260	Section G	99	4	\$20,000
71230350	Section G	99	13	\$50,000
71230410	Section G	100	4	\$51,000
71230470	Section G	100	10	\$47,250
71230640	Section G	100	27	\$45,000
71230900	Section G	100	53	\$52,500
71230930	Section G	100	56	\$35,000
71231010	Section G	100	63	\$65,000
71231440	Section G	102	22	\$35,000
71231520	Section G	102	30	\$40,000
71231870	Section G	102	65	\$19,000
71232210	Section G	104	8	\$55,000
71232500	Section G	105	22	\$25,000
71232510	Section G	106	3	\$35,000
71232520	Section G	106	4	\$36,000
71232530	Section G	106	5	\$18,000
71232570	Section G	106	10	\$35,000
71232690	Section G	106	22	\$58,500
71232870	Section G	106	40	\$30,000

Petitioner's witness Mr. Neil Good, the on-site Broker at Melby Ranch, qualified the average physical characteristics of the lots in each block as found in the following table:

Block	Number of Lots	Avg. Physical Description
79A	19	Bad
80A	5	Average
81A	5	Good
95A	8	Average
96A	1	Average
97	7	Average
98	4	Average
100	3	Good
102	14	Good
103	2	Average
106	7	Great
107	6	Average
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Mr. Good's description resulted from his personal knowledge of the physical characteristics of the subject lots including size (acreage), views, access, proximity to utilities, topography, and foliage, as well as sales of similar lots. Based on testimony, Block 79A appeared to have the least desirable lots in Section G and Block 106 had the most desirable lots. Respondent concurred with Petitioner's physical description of the lots.

Petitioner further argued that Respondent should have valued the lots on a per block basis rather than an average of all blocks, that Respondent disqualified sales that should have been used in the analysis, and that Respondent used thirteen of the higher priced lots in the section to arrive at their average value per lot of \$47,000.00.

Petitioners are requesting a 2007 average actual value of \$21,068.00 per lot.

Respondent presented an indicated average value of \$47,000.00 per lot for the subject lots based on the market approach.

Respondent presented thirteen comparable lot sales ranging in sales price from \$30,000.00 to \$65,000.00 and in size from 1.00 acre to 2.02 acres. All of the sales are located in Section G of Wild Horse Mesa. Respondent argued that there was no consistency with the way the lots were sold during the study period; therefore, no adjustments were made for view, size, location, time, or amenities. Respondent further argued that Petitioner's sales information was not accurate and many sales were unqualified, that re-purchase and multiple lot sales were included in Petitioner's analysis, that amended documentation was filed after the sales, and that Respondent's comparable sales more accurately reflected the market.

Respondent assigned an actual value of \$43,000.00 to each of the subject lots for tax year 2007.

The Board concludes that Respondent's market approach does not accurately reflect value for the subject lots considering that Respondent excluded qualified sales from their analysis. The Board further determines that Respondent failed to make market adjustments to their sales and that the lots should be valued on a per block basis rather than an average of all blocks. The Board concludes to a 2007 actual value on a per block basis after adjustment for view, size, location, time, and utilities as follows:

Subject Blocks	Number of Subject Lots	BAA Value Per Lot
79A	19	\$15,000
80A	5	\$20,000
81A	5	\$25,000
95A	8	\$22,500
96A	1	\$20,000
97	7	\$25,000
98	4	\$20,000
100	3	\$50,000
102	14	\$35,000
103	2	\$20,000
106	7	\$35,000
107	6	\$25,000
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The Board also recommends that the lots be valued on a per block basis rather than an average of all blocks and that the Costilla County Assessor employ this valuation methodology in the future.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject properties to \$2,040,000.00, based on the following average breakdown by block:

Subject Blocks	Number of Subject Lots	BAA Value Per Lot
79A	19	\$15,000
80A	5	\$20,000
81A	5	\$25,000
95A	8	\$22,500
96A	1	\$20,000
97	7	\$25,000
98	4	\$20,000
100	3	\$50,000
102	14	\$35,000
103	2	\$20,000
106	7	\$35,000
107	6	\$25,000
	81	

The Costilla County Assessor is directed to change his 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 2nd day of December, 2008.

BOARD OF ASSESSMENT APPEALS



Karen E. Hart

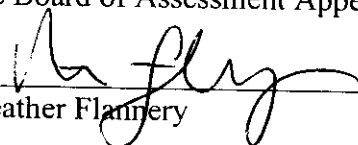
This decision was put on the record

DEC 01 2008



James R. Meurer

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



Heather Flannery

