

<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>GEORGE AND SHARON MELVIN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 49216</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 17, 2008, Karen E. Hart and Lyle D. Hansen presiding. Petitioners appeared pro se. Respondent was represented by Michelle Whisler, Esq. Petitioners are protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**491 South Highway 67, Sedalia, Colorado  
Douglas County Schedule No. R0150050**

The subject consists of five buildings situated on an approximately 19.2-acre lot: a restaurant, a single-family residence, two cabins, and a commercial utility structure. The restaurant is a 2,329 square foot two-story log structure with occupancy as a restaurant. The building was constructed in 1928 with remodeling occurring in 1968. The building is average quality and condition. The single-family residence is a 679 square foot one-story frame single-family residence with a 679 square foot finished basement. The building was constructed in 1928 with remodeling in 2000. The building is average quality and good condition. The first cabin is a 650 square foot pine finished single-family residential log cabin constructed in 1928. The building is low quality and average condition. The second cabin is a 625 square foot pine finished log cabin constructed in 1928 utilized as storage. The building is low quality and badly worn condition. The commercial utility structure is a 1,080 square foot steel light commercial utility building constructed in 1997. The building is average quality and good condition.

Petitioners presented the following values for the individual components of the subject:

Restaurant:	\$ 96,773.00
Single-family Residence:	57,715.00
Cabin:	4,311.00
Cabin:	5,125.00
Commercial Utility Building:	14,082.00
Land:	<u>144,000.00</u>
 TOTAL:	 \$322,006.00

Petitioners presented no appraisal and no comparable sales to support the value indication for the subject property.

Petitioners presented no cost approach to derive a market-adjusted cost value for the subject property.

Petitioners presented an opinion of value dated July 25, 1988 that included an income approach with a value of \$172,500.00 for the subject property. Petitioners presented an appraisal dated October 3, 1990 that included an income approach with a value of \$69,000.00. The Board gave no weight to these value indications because the dates of the opinions of value were beyond the five-year data-gathering period.

Petitioners are requesting a 2007 actual value of \$322,006.00 for the subject property.

Mr. Melvin testified that he had been contacted by the Land Use Administrator of Douglas County Community Development to advise him that his parcel of land consisting of a total of 19.2 acres was in violation of the subdivision of land with less than 35 acres as outlined in CRS §§ 30-28-101 et. seq. and the Douglas County Subdivision Resolution. In a letter the Land Use Administrator indicated the need for Petitioners to rectify the violation through an exemption application. Mr. Melvin indicated that he is in the process of completing that exemption application.

Respondent presented the following indicators of value:

Market:	\$615,000.00
Cost:	\$400,000.00
Income:	N/A

Based on the market approach, Respondent presented an indicated value of \$255,000.00 for the restaurant.

Respondent presented three comparable sales ranging in sales price from \$150,000.00 to \$500,000.00 or \$84.18 to \$252.14 per square foot and in size from 1,440 to 1,983 square feet. After adjustments were made, the sales ranged from \$72.30 to \$150.32 per square foot.

Based on the market approach, Respondent presented an indicated value of \$130,000.00 for the single-family residence.

Respondent presented three comparable sales ranging in sales price from \$134,000.00 to \$162,000.00 and in size from 720 to 833 square feet. After adjustments were made, the sales ranged from \$122,633.00 to \$133,608.00 or \$180.61 to \$196.77 per square foot.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$400,000.00.

Respondent presented eight comparable land sales ranging in sales price from \$39,000.00 to \$375,000.00 or \$5,713.48 to \$36,346.69 per acre and in size from 1.0 acre to 39.0 acres. Respondent concluded a land value of \$10,000.00 per acre or \$192,000.00 for the subject land.

Respondent presented the following Replacement Cost New Less Depreciation amounts for the building components:

Restaurant:	\$96,773.00
Single-family Residence:	74,970.00
Cabin:	16,163.00
Cabin:	4,280.00
Commercial Utility:	<u>17,740.00</u>
 TOTAL:	 \$209,926.00

Respondent did not include the income approach to derive a value for the subject property.

Respondent placed greater consideration on the market approach to value to derive a value indication for the land, the restaurant, and the single-family residence. Respondent relied upon cost approach to derive a value indication for the two cabins and for the commercial utility building.

Respondent concluded values for the individual property components, prior to discounting, as follows:

Restaurant:	\$255,000.00
Single-family Residence:	130,000.00
Cabin:	16,163.00
Cabin:	4,280.00
Commercial Utility:	17,740.00
Land Value:	<u>192,000.00</u>
 TOTAL VALUE:	 \$615,183.00
 ROUNDED:	 \$615,000.00

Respondent adjusted the value conclusion to reflect the impact of not having a good and marketable title to the property resulting from violation of CRS and the Douglas County Subdivision Resolution referencing the subdivision of land parcels less than 35 acres in size. To accomplish this adjustment, Respondent concluded that the process to exempt the subject and restore a good and marketable title would be comparable to a zoning approval process. Respondent concluded that the time period to accomplish the approval process would be approximately one year. Respondent concluded that the cost to accomplish the approval process would include a survey fee of \$5,000.00, an application fee of \$1,000.00, a title fee of \$1,000.00, and an entrepreneurial profit of 12% of \$615,000.00 or \$73,800.00. Respondent concluded a total cost of \$80,800.00. This amount deducted from the market value of \$615,000.00 results in a net market value indication of \$534,200.00. In order to account for the one-year delay to accomplish the approval process, Respondent discounted the net market value indication with a discount rate of 13%. By application of this discount factor, the final net present value of the subject was \$472,743.00, rounded to \$475,000.00.

Respondent assigned an actual value of \$451,230.00 to the subject property for tax year 2007.

Sufficient probative evidence and testimony was presented to prove that the tax year 2007 valuation of the subject property was incorrect.

The Board agrees with Respondent's cost approach to value the subject's cabins and commercial utility structure. Petitioners did not provide the Board with sufficient evidence to dispute the evidence and value conclusion presented by Respondent.

The Board also agrees with Respondent's land value conclusion. The Board agrees with the comparable sales used by Respondent and their concluded value of \$10,000.00 per acre. Petitioners did not provide the Board with sufficient evidence to dispute the concluded value per acre. Insufficient evidence was presented to change the assigned classification to the land, therefore the Board agrees with Respondent's assigned land classification of 13,363 square feet classified as commercial, and 18.887 acres classified as residential.

The Board agrees with the comparable sales presented by Respondent to value the single-family residence. The Board finds that Respondent did not adjust for differences in location and did not adjust for extra bedrooms. The Board concludes that an adjustment for these two elements should have been accomplished. However, the Board was not presented with sufficient evidence to make a specific adjustment to the comparable sales. The Board concludes that value for the single-family residence should be taken from the lower end of the range of the comparable sales to account for the location and bedroom count of the subject at \$180.00 per square foot, or \$122,000.00.

The Board agrees with the comparable sales presented by Respondent to value the restaurant. Respondent did not adjust for a difference in location. All three comparable sales are located in established communities while the subject is located in the mountains and away from established commercial developments. The Board concludes that a downward adjustment should have been made for this difference. The Board places greater weight upon Respondent's Comparable Sales 1

and 2, concluding to a value on the lower end of the range to account for the subject's location. The Board concludes a market value of the restaurant at \$85.00 per square foot, or \$198,000.00.

The Board concludes the following component values and final value not reflecting the discounting process:

Restaurant:	\$198,000.00
Single-family Residence:	122,000.00
Cabin:	16,163.00
Cabin:	4,280.00
Commercial Utility:	17,740.00
Land Value:	<u>192,000.00</u>
TOTAL VALUE:	\$550,183.00
ROUNDED:	\$550,000.00

The Board agrees with Respondent's discounting process to recognize the time delay in the application approval process to convert the subject property to a marketable title. The Board adjusted the value indication of \$550,000.00 by deducting the \$80,800.00 estimated cost of the approval process resulting in an amount of \$469,200.00. This amount was discounted for the one-year period by applying the 13% discount factor of 0.884956 resulting in a total net present value of \$415,221.00.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$415,000.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$415,000.00.

The Douglas 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 13<sup>th</sup> day of January 2009.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Lyle B. Hansen*

Lyle B. Hansen

This decision was put on the record

**JAN 12 2009**

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

*Heather Flannery*  
Heather Flannery

