

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 49475

Petitioner:

CLARENCE SOBBA,

v.

Respondent:

PARK COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 2, 2008, Diane M. DeVries and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Herbert C. Phillips, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Schedule No.	Property Name – Interest %	Acres
R0090199	Dodge Union -100%	10.33
R0090200	Union -100%	6.77
R0091002	Janet -50%	10.33
R0091197	Silver Bill -50%	5.84
R0091205	Defender - 50%	9.79
R0091206	Vigilant - 50%	9.79
R0091249	Zelma -100%	12.90
R0091363	Shamrock - 50%	7.82
R0091386	Big Sacramento - 25%	159.81
R0091393	Waterfall - 25%	159.33
R0091394	Bed Rock - 25%	157.87
R0091397	Jewett Placer - 50%	100.75
R0091400	Crisis - 25%	128.74
R0091485	Collingswood - 25%	10.22
R0091488	Glorianna - 50%	10.33
R0091636	Ibex - 25%	9.29
R0091850	New York Placer - 33.33%	110.00
R0091851	Boston Placer - 33.33%	80.00

At the hearing, the parties agreed that the 2007 actual value for 13 of the 18 subject schedule numbers should be as follows:

Schedule No.	Property Name – Interest %	Value Assigned by Respondent	Stipulated Value
R0090199	Dodge Union -100%	\$2,511.00	\$981.00
R0090200	Union -100%	\$1,489.00	\$643.00
R0091002	Janet -50%	\$1,136.00	\$491.00
R0091197	Silver Bill -50%	\$642.00	\$555.00
R0091205	Defender - 50%	\$1,077.00	\$465.00
R0091206	Vigilant - 50%	\$1,077.00	\$465.00
R0091363	Shamrock - 50%	\$860.00	\$372.00
R0091386	Big Sacramento - 25%	\$8,790.00	\$3,796.00
R0091393	Waterfall - 25%	\$8,763.00	\$3,784.00
R0091394	Bed Rock - 25%	\$8,638.00	\$3,750.00
R0091397	Jewett Placer - 50%	\$11,083.00	\$4,786.00
R0091488	Glorianna - 50%	\$1,136.00	\$491.00
R0091636	Ibex - 25%	\$511.00	\$221.00

The Board concurs with the stipulated values.

The remaining subject properties consist of the following five non-producing patented mining claims:

Schedule No.	Property Name – Interest %	Acres
R0091249	Zelma -100%	12.90
R0091400	Crisis - 25%	128.74
R0091485	Collingswood - 25%	10.22
R0091850	New York Placer - 33.33%	110.00
R0091851	Boston Placer - 33.33%	80.00

The Board incorporated the following from Docket No. 48951: Petitioner and Respondent's opening statements, Petitioner's Exhibit A, Kristy Gould's qualifications, and testimony regarding the Crisis Placer and Collingswood mining claims.

Petitioner, Mr. Clarence Sobba, testified that the subject properties are only suitable for mining prospects. He has mined and prospected the claims. None of the subject properties have county road frontage.

Mr. Sobba testified that the Collingswood slope is about a 50% grade, which would be difficult for road development due to potential mud slides. He does not believe the photograph in Exhibit 1, page 5 is of the Crisis Placer.

Regarding the Boston Placer and the New York Placer, the wires and transformers have been removed from the electric line as shown in Exhibit C. He admits that the power poles make electrical services available, but testified that the service lines are abandoned. The tailings pond is man-made for the purpose of processing ore (see Exhibit B). The water comes from the Zelma Placer area of the creek and they have 12 cubic feet of water rights for mining purposes only. Access to the New York and the Boston is from a Forest Service road that is blocked. Mr. Sobba built a bridge on an easement for his private access.

Mr. Sobba testified that the Zelma Placer has rock slides off the mountain as it is under a straight up-and-down mountain side and boulders as large as a table fall off each year with the snow and runoff. Other mines are dumping onto the Zelma. He does not believe there is any comparable property in Park County for the Zelma. The top southern part of the Zelma property is nothing but boulders and a dump.

Petitioner is requesting a 2007 actual value of \$95.00 per acre for the subject properties.

Respondent presented an indicated value of \$144,985.00 for the subject properties based on the market approach, delineated as follows:

Schedule No.	Property Name – Interest %	Respondent's Indicated Value
R0091249	Zelma - 100%	\$8,200.00
R0091400	Crisis - 25%	\$46,025.00
R0091485	Collingswood - 25%	\$6,100.00
R0091850	New York Placer - 33.33%	\$46,530.00
R0091851	Boston Placer - 33.33%	\$38,130.00

Respondent's witness, Ms. Kristy Gould, Deputy Park County Assessor, testified that the subject properties are located below an elevation of 11,500 feet, have difficult access to maintained access, steep to gentle sloping terrain, average to heavy tree cover, and excellent mountain views. There are no utilities or live water on the subject properties, though some have electric service available.

Regarding subject property Schedule R0091249, Zelma Placer, Respondent presented three comparable sales ranging in sales price from \$11,633.00 to \$20,000.00 and in size from 9.81 acres to 10.55 acres. After adjustments were made, including large adjustments for difficult access and difficult topography, the sales ranged from \$8,198.00 to \$12,281.00. The indicated subject property value is \$8,200.00.

Regarding subject property Schedule R0091400, Crisis Placer, Respondent presented three comparable sales ranging in sales price from \$111,250.00 to \$390,000.00 and in size from 97.86 acres to 155.70 acres. After adjustments were made, the sales ranged from \$191,460.00 to \$280,835.00. Adjustments included utilities as the subject property has electrical service available. The indicated subject property value is \$46,025.00 for the subject's 25% interest.

Regarding subject property Schedule R0091485, Collingswood, Respondent presented three comparable sales ranging in sales price from \$11,633.00 to \$20,000.00 and in size from 9.81 acres to 10.55 acres. After adjustments were made, the sales ranged from \$8,628.00 to \$14,698.00. Adjustments included topography as the subject property is a difficult building site. The indicated subject property value is unclear: Appendix A, page 20, of Respondent's Exhibit 1 lists \$2,740.00 for the subject's 25% interest; page 2, 4, and 12 of Respondent's Exhibit 1 list the indicated value as \$6,100.00.

Regarding subject property Schedule R0091850, New York Placer, Respondent presented three comparable sales ranging in sales price from \$111,250.00 to \$390,000.00 and in size from 97.86 acres to 155.70 acres. After adjustments were made, the sales ranged from \$152,460.00 to \$229,300.00. Ms. Gould testified that no value was attributed to the pond. The indicated subject property value is \$46,530.00 for the subject's 33.33% interest.

Regarding subject property Schedule R0091851, Boston Placer, Respondent presented three comparable sales ranging in sales price from \$56,875.00 to \$135,000.00 and in size from 49.70 acres

to 97.86 acres. After adjustments were made, the sales ranged from \$106,635.00 to \$167,625.00. Ms. Gould testified that no value was attributed to the pond. The indicated subject property value is \$38,130.00 for the subject's 33.33% interest.

Respondent assigned an actual value of \$146,447.00 to the subject properties for tax year 2007, delineated as follows:

Schedule No.	Property Name – Interest %	Value Assigned by Respondent
R0091249	Zelma -100%	\$2,838.00
R0091400	Crisis - 25%	\$46,025.00
R0091485	Collingswood - 25%	\$7,026.00
R0091850	New York Placer - 33.33%	\$52,428.00
R0091851	Boston Placer - 33.33%	\$38,130.00

Sufficient probative evidence and testimony was presented to prove Schedules R0091850 and R0091485 were incorrectly valued for tax year 2007.

Respondent recommends a reduction from \$52,428.00 to \$46,530.00 for subject property Schedule R0091850, New York Placer. The Board agrees with Respondent's indicated value.

Regarding Schedule R0091485, Collingswood, the Board reviewed the valuation of the property for both this docket and Docket No. 48951 and finds inconsistencies in the mathematical calculations for the percentage valuations. The Board determined that the valuation of the property in fee simple 100% interest should be \$14,610.00. Therefore the 25% interest for the property in this docket should be \$3,652.50.

Respondent presented sufficient probative evidence and testimony to prove that the remaining three subject properties were correctly valued for tax year 2007.

The Board does not have jurisdiction over the preservation of mining claims or the zoning regulations of Park County. Classification is not at issue as the subject properties are classified as non-producing patented mining claims. The only issue is valuation and the market dictates the most probable use and corresponding value of the subject properties. The Board was convinced that Respondent used sales of similar mining claims to value the subject property.

Petitioner disputed the use of Respondent's comparable sales but presented no documented sales for the Board to consider. In contrast, Respondent presented an appraisal report using three comparable sales for each of the subject properties with adjustments made for differences in physical characteristics. Petitioner did not present sufficient evidence to prove that Respondent's sales were not the best available or that the adjustments used were incorrect.

ORDER:

According to the stipulation entered on the record at the hearing on October 2, 2008, Respondent is ordered to reduce the 2007 actual values as follows:

Schedule No.	Stipulated Value
R0090199	\$981.00
R0090200	\$643.00
R0091002	\$491.00
R0091197	\$555.00
R0091205	\$465.00
R0091206	\$465.00
R0091363	\$372.00
R0091386	\$3,796.00
R0091393	\$3,784.00
R0091394	\$3,750.00
R0091397	\$4,786.00
R0091488	\$491.00
R0091636	\$221.00

Respondent is ordered to reduce the 2007 actual value of Schedule R0091485 to \$3,652.00 and Schedule R0091850 to \$46,530.00.

The Park County Assessor is directed to change his records accordingly.

The remainder of 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 30th day of January 2009.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries




Karen E. Hart

This decision was put on the record

JAN 30 2009

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



Heather Flannery

