

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MISTY OHMART,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51379</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 19, 2010, Diane M. DeVries and MaryKay Kelley presiding. Misty Ohmart appeared pro se. Respondent was represented by David Wunderlich, Esq. Petitioner is protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**33734 Kerr Road, Pine, Colorado
(Jefferson County Schedule No. 045362)**

The subject is a vacant 1.043-acre parcel in the Mountain View Lakes subdivision, which lies along the Highway 285 corridor near Conifer. The site sits at the intersection of two roads, is treed with a gentle to moderate slope, and has an easily-accessed building envelope.

The subdivision is comprised of several hundred lots, 0.25-acre size being typical. Assemblage is common and necessary to meet the one-acre requirement for well and septic permits. The subject parcel includes five lots and meets the county's requirement. No formal homeowners' association exists. Interior dirt roads are not maintained.

Respondent assigned an actual value of \$40,000.00 for tax year 2008. Petitioner is requesting a value of \$25,000.00.

Prior to construction, legal merger of the subject's five lots will be required to ensure that partial lot sales cannot occur at a later date. Also, tree removal and the purchase of additional lots will be required to meet county fire break regulations.

Petitioner and Petitioner's witnesses described interior roads as rugged, impassable in the winter, and requiring four-wheel-drive vehicles in the summer. Although summer cabins exist, permanent residency is not feasible.

Petitioner and Petitioner's witnesses reported that base period sales in the subdivision did not exist and that neighboring subdivisions carried higher overall values, greater marketability, and are not valid comparables.

Petitioner and Petitioner's witnesses argued that county regulations such as legal merging of lots and tree removal for fire breaks have a negative impact on marketability.

Petitioner presented one comparable sale, a 0.429-acre site located in the subject subdivision at 12757 Cindy Avenue. It sold October 7, 2002 for an adjusted sales price of \$3,500.00. Respondent declined consideration of this sale because of its older sale date, because its subdivision has community well and septic systems, and because it is a non-buildable site likely purchased for assemblage. The Board agrees with Respondent.

Petitioner is requesting a value of \$25,000.00 for the subject property based on a post-base period sale not admitted for consideration.

Respondent presented an indicated value of \$53,500.00 for the subject property based on the market approach. Four comparable sales were presented ranging in sales price from \$40,000.00 to \$75,000.00 and in size from 0.889 to 1.130 acres. They are located in nearby subdivisions along the Highway 285 corridor. Three, like the subject, had no interior road maintenance. After adjustments were made, the sales ranged from \$36,000.00 to \$63,750.00.

Respondent's witness testified that roads within the subdivision were accessible year round during the base period, that six to eight homes in the subject's immediate area had permanent residents, and that values of improved parcels approximate \$300,000.00, dispelling the contention that all structures are summer cabins. Subdivision lots are primarily sold out, accounting for the lack of sales during the base period.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2008.

The Board was persuaded that the subject subdivision is similar to others in the Conifer area. The absence of road maintenance is not uncommon in mountain communities and has not prevented permanent residency in Mountain View Lakes. Legal merging of lots to maintain one-acre parcels and prevent downsizing is not uncommon. Tree removal and accessibility in the event of fire is common practice in forested areas. Petitioner presented neither testimony nor evidence to disprove the comparability of Respondent's sales.

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 Section 24-4-106(11), C.R.S. (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 Section 24-4-106(11), C.R.S. (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.

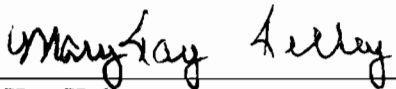
Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of March 2010.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



MaryKay Kelley

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



Heather Flannery

