

<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>WRIGHT FAMILY ASPEN LP,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PITKIN COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51741</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 31, 2011, Gregg Near and Sondra W. Mercier presiding. Petitioner was represented by Edward J. Krisor, Esq. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Section 6, Township 10, Range 84, Land in SW4SW4 of Sec. 6-10-84  
Desc. by M/B BK 632 PG 802, Aspen, Colorado  
Pitkin County Schedule No. R008524**

The subject property consists of vacant land located in a residential area. The subject is 34,664 square feet in size. The subject is bisected by Wrights Road.

Petitioners are requesting an actual value of \$4,090,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$7,000,000.00 for the subject property for tax year 2009.

Petitioner's witness, Mr. Mark S. Weston, Hunsperger & Weston, Ltd., presented eight comparable sales ranging in sale price from \$3,300,000.00 to \$8,800,000.00 and in size from 31,363 to 108,907 square feet. Mr. Weston applied an upward time adjustment through 2007, with a negative adjustment applied for the first six months of 2008. After adjustments were made, the sales ranged from \$3,547,014.00 to \$8,740,336.00.

Petitioner presented a topographical map showing that 69.1% of the subject is at a grade equal to or greater than 45%. Petitioner contends that Respondent did not give adequate consideration to the lack of entitlements for future residential development of the subject compared to the comparable sales used. Petitioner's witness, Mr. Weston, testified that the process of putting entitlements in place for the subject would require an extended time period and that the potential to sell the subject was limited by the requirements of the approval process.

Petitioner is requesting a 2009 actual value of \$4,090,000.00 for the subject property.

Respondent presented a value of \$7,000,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sale price from \$6,000,000.00 to \$7,250,000.00 and in size from 31,363 square feet to 1.02 acres. Respondent applied a time adjustment of 1.88% per month. Additional quantitative adjustments were made for size, utilities, allowable floor area, views, topography, location, and improvements in place at the time of sale. After adjustments were made, the sales ranged from \$6,052,440.00 to \$8,638,013.00.

Respondent contends that the standard approval process is much shorter than indicated by Petitioner. Respondent calculates allowable floor area of the subject to be 4,350 square feet above grade plus garage area of 750 square feet and basement area of 4,000 square feet for a total area of 9,100 square feet; however, development of greater than 5,750 square feet would require competition through the Growth Management Quota System (GMQS) or purchase of Transferable Development Rights (TDRs).

Respondent assigned an actual value of \$7,000,000.00 to the subject property for tax year 2009.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board was convinced that the potential for development or entitlements for the subject was less than what was shown for a majority of the comparable sales. The Board was further convinced that the subject's topography was steep and presented challenges to development, with a majority of the site at a 45% grade or greater. While Respondent attempted to make adjustments for both items, the adjustments were not based on market data and were subjective.

The Board was convinced that Petitioner's Comparable Sales 6 and 7 provided the best indication of the value of the subject. Both had similar entitlements at the time of sale and had similar issues of topography. Mr. Weston applied an upward time adjustment of 12% per year through 2007, with a negative adjustment of 6.3% applied for the first six months of 2008. Mr. Weston testified that an upward adjustment of greater than 12% was not supported for a property without entitlement; however, he provided insufficient market data to support this contention. Further, Mr. Weston's downward adjustment of 6.3% for the first six months of 2008 was based on data from the full 12 months of 2008.

The Board has relied on Respondent's Exhibit C to conclude to a time adjustment of 1.3% per month through 2007. This is based on the increase in average sales price of vacant land of 15.7% between 2006 and 2007. No adjustment is made for the first six months of 2008 due to insufficient data to support further adjustment. Comparable Sale 6 is adjusted by the Board to \$4,944,500.00 and Comparable Sale 7 is adjusted by the Board to \$4,715,700.00. The Board concludes to a value of \$4,830,000.00 based on the average of these two sales, rounded.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$4,830,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$4,830,000.00

The Pitkin County Assessor is directed to change his/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 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).

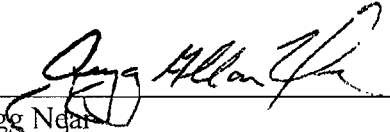
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.


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 4 day of March 2011.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
Gregg Neal

  
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Sondra W. Mercier

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

  
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Amy Bruins

