

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>VICKI FERGUSON AND KEITH MONTOYA,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51863</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 2, 2011, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner, Vicki Ferguson, appeared pro se on behalf of Petitioners. Respondent was represented by Jennifer A. Davis, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**30260 Antelope Lane, Buena Vista, Colorado
Chaffee County Schedule No. R323602300089**

**30093 Elk Meadow, Buena Vista, Colorado
Chaffee County Schedule No. R326902300095**

The subject properties consist of two single-family residential lots. The lot at 30260 Antelope Lane contains a total of 2.92 acres. The lot at 30093 Elk Meadow contains a total of 3.41 acres. Both lots are situated in the Game Trail residential subdivision. Both lots have public road access, community water and electrical utilities.

Petitioners are requesting an actual value at 30260 Antelope Lane of \$67,850.00 for the subject property for tax year 2009. Respondent assigned a value of \$91,196.00 for the subject property for tax year 2009. Petitioners are requesting an actual value at 30093 Elk Meadow of \$67,833.00 for the subject property for tax year 2009. Respondent assigned a value of \$104,643.00 for the subject property for tax year 2009.

Petitioners presented no appraisal to support her value estimates. Petitioners presented six comparable sales ranging in sale price from \$65,000.00 to \$97,850.00 and in size from 2.0 to 8.07 acres. No adjustments were made.

Petitioner, Vicky Ferguson, testified that she objected to the Chaffee County Assessor increasing the assigned value to her two residential lots by 35% and 20% over the previously assigned values. She testified that several of the comparable sales were located in more exclusive areas of the Game Trail subdivision where the lots had superior mountain views and more trees than the subject requiring downward adjustments. Comparable Sale 1 with a total of 8.07 acres was three times larger than her two lots and sold in April of 2007 for \$97,850.00. Comparable Sale 2 is located three lots from the subject lots sold in January of 2007 for \$65,000.00. Ms. Ferguson testified that Comparable Sale 3 is located in the most exclusive section of the subdivision and sold in June of 2007 for \$69,000.00. Comparable Sale 4 is located in an upper portion of the subdivision and also in an exclusive area sold in April of 2008 for \$69,500.00. Comparable Sale 5 sold in October of 2007 for \$87,000.00 is a prime lot, heavily treed and has both mountain and valley views. Ms. Ferguson testified that Comparable Sale 6 sold in January of 2008 for \$95,000.00 is located in the most exclusive area of Game Trail Subdivision and is near national forest land.

Petitioners' witness, Mr. Bruce Ward who is a realtor in Chaffee County, testified that the lower one-third of the Game Trail Subdivision, where the subject lots are located, is flat with a minimum number of trees. Mr. Ward testified that market values in Chaffee County were declining during the study period and stated that respondent's appraiser should have adjusted downward for a time adjustment rather than upward. He testified that the peak of the real estate market in Chaffee County occurred in 2006 when 18 residential lots in the subject subdivision sold; ten lots sold in the first half of 2007, followed by five lots selling in the second half of 2007. Only two lot sales occurred in 2008, indicating declining market activity.

Petitioners are requesting a 2009 actual value of \$67,850.00 for the subject property at 30260 Antelope Lane and is requesting a 2009 actual value of \$67,833.00 for the subject property at 30093 Elk Meadow.

Respondent presented a value for the subject property at 30260 Antelope Lane of \$94,000.00 and a value for the subject property at 30093 Elk Meadow of 105,000.00. Both values were based on the market approach.

For the subject property at 30260 Arapahoe Lane, Respondent's appraiser Mr. Dean Russell presented three comparable sales ranging in sale price from \$65,000.00 to \$90,800.00 and in size from 2.67 to 3.41 acres. After adjustments were made, the sales ranged from \$93,006.00 to \$94,912.00.

For the subject property at 30093 Elk Meadow, Mr. Russell presented three comparable sales ranging in sale price from \$86,000.00 to \$122,000.00 and in size from 2.18 to 3.16 acres. After adjustments were made, the sales ranged from \$103,347.00 to \$110,130.00.

Mr. Russell testified that market values for residential lots in Chaffee County were steady to increasing during the study period of January 1, 2007 to June 30, 2008. He testified that he reviewed residential lot sales in the subject subdivision over a 24-month study period from July 1, 2006 to June 30, 2008 during which 31 sales occurred. He testified that his time adjustment was based upon time-trend analysis accomplished by Chaffee County Assessor's Office, the results of which were audited and approved by an independent auditing company.

Mr. Harris testified that lot values are enhanced by mountain views and trees on the property. He testified that the subject lots have mountain views and few trees. He adjusted the comparable sales for differences in trees in a range from 2% to 34%.

Respondent assigned a value for the subject lots at 30260 Antelope Lane of \$91,196.00 for the subject property for tax year 2009. Respondent assigned a value for the subject lots at 30093 Elk Meadow of \$104,643.00 for the subject property for tax year 2009.

Petitioners presented sufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2009.

The Board gave minimal weight to Mr. Harris' adjustments for trees. He testified that the subjects have few trees. The photos from both appraisals show a minimal amount of trees on the subject properties and on the comparable sales. The aerial photos from Mr. Harris' appraisals confirm that there are few trees on the two subject lots and on the comparable sales. The Board gave minimal weight to Mr. Harris' time adjustments for that portion of the base period from January 1, 2008 through June 30, 2008.

Regarding the 18-month versus 24-month data gathering period, Respondent's standard policy using a 24-month study period for the purposes of capturing two full years with all seasons is contrary to statute. An expansion of the data-gathering period is permissible only when adequate data is not available. Section 39-1-104(10.2)(d), C.R.S. states in part:

Beginning with the property tax year commencing January 1, 1999, if comparable valuation data is not available from such one-and-one-half-year period to adequately determine such actual value for a class of property, "level of value" means the actual value of taxable real property as ascertained by said applicable factors for such one-and-one-half-year period, the six-month period immediately preceding such one-and-one-half-year period, and as many preceding six-month periods within the five-year period immediately prior to July 1 immediately preceding the assessment date as are necessary to obtain adequate comparable valuation data. Said level of value shall be adjusted to the final day of the data-gathering period.

The Board found Respondent's statements regarding the 24-month data-gathering period scattered throughout Exhibit A to be contrary to statute and misleading. The Board gave minimal weight to Mr. Harris's comparable sales that occurred prior to January 1, 2007 since adequate sales existed during the study period from January 1, 2007 to June 30, 2008.

The Board concluded that the 2009 actual value of the subject property at 30260 Antelope Lane should be reduced to \$80,000.00. The Board concluded that the 2009 actual value of the subject property at 30093 Elk Meadow should be reduced to \$85,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property At 30260 Antelope Lane to \$80,000.00. Respondent is ordered to reduce the 2009 actual value of the subject property At 30093 Elk Meadow to \$85,000.00.

The Chaffee 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 10 day of March 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Lyle D. Hansen

Lyle D. Hansen

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

Amy L. Bruins

Amy Bruins

