

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WILLIE & BERNICE WIMER,</p> <p>v.</p> <p>Respondent:</p> <p>COSTILLA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52047</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 22, 2010, Debra A. Baumbach and Lyle D. Hansen presiding. Ms. Teri Rodriguez appeared on behalf of Petitioners. Respondent was represented by Edwin J. Lobato, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Petitioners requested that their case be presented by Ms. Teri Rodriguez, who is their granddaughter and had researched and collected documents for their Petition. Respondent's Counsel, Mr. Edwin Lobato, agreed to Ms. Rodriguez serving as presenter of Petitioners' case with the condition that she can be cross-examined.

Subject property is described as follows:

**Wild Horse Mesa, Section G Block 96A Lot 5, Costilla County, Colorado
Costilla County Parcel No. 712-29-570**

The subject property consists of a vacant lot containing a total of 2.02 acres. Public access is provided by dirt and gravel roads. There are no public utilities provided to the lot.

Petitioners are requesting an actual value of \$10,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$40,500.00 for the subject property for tax year 2009.

Petitioner presented no appraisal to support their estimate of value. Petitioner presented two comparable sales ranging in sale price from \$1,800.00 to \$5,000.00 and in size from 2.09 to 2.51 acres. No adjustments were made.

Ms. Rodriguez testified that Mr. and Mrs. Wimer purchased the lot in November of 1977. She testified that the only improvement added to the lot since purchase was a fire pit. She presented a topological map showing the location of the subject and location of Respondent's three comparable sales. She testified that this map shows that the subject does not have a view amenity of the lake that is situated in the subject neighborhood; whereas, the Respondent's three comparable sales have a view of the lake. She presented photos of view amenities of the subject and Respondent's three comparable sales. She testified that the photos show that Respondent's three comparable sales have a superior view of the mountains to the east than the subject has.

Petitioner is requesting a 2009 actual value of \$10,000.00 for the subject property.

Respondent presented a value of \$70,000.00 for the subject property based on the market approach.

Respondent's appraiser, Ms. Ronda Lobato, presented three comparable sales ranging in sale price from \$35,000.00 to \$60,000.00 and in size from 1.03 to 2.05 acres. After adjustments were made, the sales ranged from \$70,000.00 to \$98,057.00.

Respondent assigned an actual value of \$40,500.00 to the subject property for tax year 2009.

Sufficient probative evidence and testimony was given to prove that the subject property was incorrectly valued for tax year 2009.

Ms. Lobato testified that Petitioner's two comparable sales were not representative arm's-length sales because each sale involved multiple lots in the transaction. Her testimony was confirmed by Petitioner's Exhibit 1, page 42, which is a copy of Costilla County records displaying a summary of the transaction of each sale.

The Board gave consideration to Ms. Lobato's comparable sales in deriving a value for the subject lot. The Board gave minimal weight to the adjustment for difference in road access since the subject lot and comparable lots all appear to have similar road access. The Board gave minimal weight to the adjustment for difference in terrain since the terrain of the subject lots are comparable lots and appear to be reasonably similar. The Board gave minimal weight to the adjustment for difference in lot size. The sale price per acre for the three comparable sales ranged from \$29,268.00 to \$48,543.00. This sale price per acre range reflects the price the purchaser paid for all lot amenities including lot size, location, terrain, access and view. The Board concluded an indicated value range of the three comparable sales from \$30,000.00 to \$50,000.00. The Board concluded the indicated value for the subject lot in the lower portion of the range or at \$35,000.00, and that the 2009 actual value of the subject property should be reduced to \$35,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$35,000.00

The Costilla 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 5 day of November 2010.

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 Bruins

Amy Bruins

