

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LOWELL AND DIANE HUNTER,</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52301</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 23, 2010, Karen E. Hart and Diane M. DeVries presiding. Petitioners were represented by Raymond Bowers, Agent. Respondent was represented by Steven Zwick, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**137 Vischer Drive, Mountain Village, Colorado
(San Miguel County Schedule No. R108000005)**

The subject property is a 0.39 acre or 16,988 square foot vacant lot located in Telluride Mountain Village Filing 1, Colorado. Mountain Village has an elevation of about 9,450 feet and overlooks the peaks of the San Juan Mountains in the Uncompahgre National Forest. Mountain Village is accessed by a free gondola from the Town of Telluride or by highway. The center of operations of the Telluride Ski Resort, the 92-acre Village Core, offers ski in/ski out accommodations, restaurants, shops and luxurious hotel spa facilities.

The subject lot is surrounded by large high-end private homes and Pine Meadows condominium complex. In the summer there is an 18-hole championship golf course and miles of hiking and biking trails. The subject lot is well located with ski access about a 400 foot walk uphill

from the home site. The lot is located at the end of a cul-de-sac. It enjoys panoramic views to the North of the Sneffels Mountain Range as well as good views to the southeast. The site is sloping to the west with a flat to gently sloped area as the most probable home site. There are utilities and water to the lot line.

Raymond Bowers, real estate broker and agent for Petitioners, testified the finger-shaped section of the lot is rendered practically useless due to its narrowness and the gully running through it. This section comprises about 0.08 of an acre, thus reducing the usable area of the lot to 0.31 acres.

Mr. Bowers presented three comparable sales in close proximity to the subject property, ranging in sales prices from \$600,000.00 to \$888,125.00 and in size from 0.22 acres to 0.45 acres. After making adjustments for views, road impact, proximity to the Village Core, ski access, shape, open space and levelness, the adjusted sales price ranged from \$735,000.00 to \$783,125.00. Averaging these three adjusted values, a value of \$759,042.00 was derived.

Mr. Bowers then presented three other comparables which are Petitioners' Comparable Sales 4, 5, and 6 ranging in sales price from \$500,000.00 to \$825,000.00 and in size from 0.28 acres to 0.69 acres. After making adjustments for appreciation, size, view, road impacts, proximity to the Village Core, ski access, shape, open space, levelness, bulk sale and driveway easement, the adjusted price ranged from \$667,500.00 to \$865,000.00. Averaging these three sales derived an adjusted value of \$757,250.00.

Mr. Bowers gave special attention to Petitioners' Comparable Sale 1 at 125 Vischer Drive, Lot 7. That property is 0.29 acres, sold August 1, 2007 for \$849,000.00, adjoins open space and has excellent ski slope access. It may be a little smaller and have a steeper slope to it, but the positives far out weigh the negatives, according to Mr. Bowers.

Petitioners are requesting a 2009 actual value of \$760,000.00 for the subject property.

Respondent presented an indicated value of \$975,000.00 for the subject property based on the market approach.

Respondent's witness, Guy T. Poulin, Certified Residential Appraiser, presented three comparable sales ranging in sales price from \$849,000.00 to \$1,137,500.00 and in size from 12,632 to 27,878 square feet. After adjustments were made, the sales ranged from \$951,695.00 to \$975,935.00. Adjustments were made, including: excess land at a rate of \$9.65 per square foot, topography at 5%, ski/golf access at 5% and location at 5%.

Respondent's witness correlated to an actual value for the subject property at \$975,000.00 for tax year 2009 and is recommending the Board affirm this value.

Respondent assigned an actual value of \$1,064,000.00 to the subject property for tax year 2009.

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

The Board reviewed all evidence and testimony presented by both parties. Petitioners' and Respondent's Comparable Sales 1 and 3 are the same sales, with Respondent's witness making well-documented adjustments for size, topography and ski/golf access while Petitioners' agent did not adjust for size and topography. Both parties had similar view adjustments. Using sales close to the Village Core is more representative of the actual value of the subject. Much larger adjustments are required when using sales outside of the relevant area.

Petitioners' agent testified that he derived his value by averaging the adjusted sales prices, which is not a typical appraisal practice.

The Board determined that Respondent's recommendation of reducing the 2009 actual value of the subject lot adequately reflects the market during the relevant data gather period of January 1, 2007 through June 30, 2009. Respondent properly applied the Colorado Revised Statutes and Division of Property Taxation Guidelines in deriving the actual value of the subject property.

The Board agreed with Respondent's recommendation of reducing the 2009 actual value of the subject property to \$975,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$975,000.00.

The San Miguel 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 1st day of October 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Diane M DeVries
Diane M. DeVries

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

Amy Bruins
Amy Bruins

