

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 52493

Petitioner:

CLARENCE SOBBA,

v.

Respondent:

PARK COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 29, 2010, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Marcus A. McAskin, Esq. Petitioner is protesting the 2009 actual value of the subject properties.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

Schedule No.	Property Name-Interest %	Acres
R0090199	Dodge Union # 4-100%	10.33
R0090200	Union # 5-100%	6.77
R0091249	Zelma Placer-100%	12.90
R0091485	Collingswood-25%	10.22
R0091397	Jewett Placer-50%	100.75
R0091850	New York Placer-33.33%	110.00
R0091394	Bed Rock-25%	157.87

The subject properties consist of seven unimproved patented mining claims, totaling 408.84 acres, located in mountainous terrain near Alma and Fairplay.

Petitioner presented an indicated value of \$90.00 per acre for each of the properties but did not present any sales data. Petitioner contends there have been no recent comparable sales during the base period to support an increase in the valuation and no improvements have been made to any of the properties to warrant any value change from the previous assessment period.

Mr. Sobba testified the seven mining claims have been in his family for well over a hundred years. The intent has always been to mine the claims when economically feasible but transporting the raw materials for proper processing has been too expensive to warrant any mining activity. The closest processing facility is located in Vancouver, British Columbia and any raw materials would have to be transported to Vancouver for proper processing.

Mr. Sobba testified the subject properties Schedules R0090199, Dodge Union # 4; R0090200, Union # 5 and R0091249, Zelma Placer have been in and out of mining production since 1937 depending on the price of processing the minerals. The location is in mountainous terrain extending to the top of Loveland Mountain ranging in elevation from 11,000 to 11,600 feet with a 70% slope. Due to the steep terrain, large rocks fall from the cliffs each season, requiring maintenance of the heavy truck access road.

The Zelma Placer is located at the base of the Dodge Union # 4 and Union # 5 and is influenced by the same location issues and steep terrain.

Subject property Schedule R0091485, Collingswood, shares similar elevation, difficult terrain and access to the other claims.

Regarding subject properties Schedules R0091397, Jewett Placer and R0091394, Bed Rock Placer, they both are located one mile north of Fairplay. There is limited access to both of these properties and the elevation is primarily above 12,000 feet. There is also a 500 foot vertical cliff located on the north face of both properties.

Subject property Schedule R0091850, New York Placer, only has summer access through a bridge that Petitioner constructed over the Buckskin Creek. A portion of the property reaches an elevation of 11,500 feet.

Mr. Sobba testified that the subject properties have always been mining properties with difficult access, high elevation and steep topography. They would not qualify for a Conditional Use Permit under current zoning regulations for any type of residential use or building site.

Petitioner is requesting a 2009 total actual value of \$36,795.60, or \$90.00 per acre, for the subject properties as follows:

Schedule No.	Property Name-Interest %	Petitioner's Requested Value
R0090199	Dodge Union # 4-100%	\$ 929.70
R0090200	Union # 5-100%	\$ 609.30
R0091249	Zelma Placer-100%	\$ 1,161.00
R0091485	Collingswood-25%	\$ 919.80
R0091397	Jewett Placer-50%	\$ 9,067.50
R0091850	New York Placer-33.33%	\$ 9,900.00
R0091394	Bed Rock-25%	\$14,208.30

Respondent's witness, Ms. Angela R. Kanack, Certified Residential Appraiser with Park County Assessor's office, testified the subject properties were valued as non-producing mining claims not as vacant land. The comparable sales used are also non-producing mining claims and sold within the extended base period. They were the most similar to the subject properties and required the least degree of adjustment. None of the comparable sales used in the valuation have a Conditional Use Permit allowing for building.

There are two distinct neighborhoods for mining claims; one is for properties located above 11,500 feet elevation and the other for properties below 11,500 feet elevation. The current land use regulations permit a Conditional Use Permit allowing for building if any portion of the property is located below the 11,500 foot elevation. Elevation was determined through topographical maps, historical data and talking with property owners. Adjustments were made for location on all properties located below the 11,500 foot elevation. None of the subject properties lie wholly above the 11,500 foot elevation.

Respondent's witness, Ms. Kristy Gould, Deputy Park County Assessor, explained further that properties located below the 11,500 foot elevation may obtain a Conditional Use Permit allowing for building. However, she explained that it is a judgment call as to how much of the property either below or above the 11,500 foot elevation qualifies. Therefore, if any of the property lies below the 11,500 foot elevation, their office classifies them as having the ability to apply for a permit.

Respondent presented a total indicated value of \$139,520.00 for the subject properties based on the market approach as follows:

Schedule No.	Property Name-Interest %	Respondent's Indicated Value
R0090199	Dodge Union # 4-100%	\$ 7,576.00
R0090200	Union # 5-100%	\$ 4,965.00
R0091249	Zelma Placer-100%	\$13,407.00
R0091485	Collingswood-25%	\$ 8,128.00
R0091397	Jewett Placer-50%	\$16,198.00
R0091850	New York Placer-33.33%	\$76,556.00
R0091394	Bed Rock-25%	\$12,690.00

Regarding subject property Schedule R0090199, Dodge Union # 4, Respondent presented three comparable sales ranging in sales price from \$33,000.00 to \$60,000.00, all 10.33 acres in size. After adjustments were made, the sales ranged from \$15,000.00 to \$21,000.00. Adjustments included access and topography. Adjustments also included location as Sales 2 and 3 were both located in a superior area. The indicated subject property value is \$7,576.00.

Regarding subject property Schedule R0090200, Union # 5, Respondent presented three comparable sales ranging in sales price from \$33,000.00 to \$60,000.00, all 10.33 acres in size. After adjustments were made, the sales ranged from \$3,610.00 to \$ 9,610.00. Adjustments included difference in acreage, access and topography. Adjustments also included location as Sales 2 and 3 were both located in a superior area. The indicated subject property value is \$4,965.00.

Regarding subject property Schedule R0091249, Zelma Placer, Respondent presented three comparable sales ranging in sales price from \$33,000.00 to \$ 60,000.00, all 10.33 acres in size. After adjustments were made, the sales ranged from \$23,225.00 to \$41,225.00. Adjustments included location and access as Sales 2 and 3 were both located in a superior area and Sale 2 had superior access. The indicated subject property value is \$13,407.00.

Regarding subject property Schedule R0091485, Collingswood, Respondent presented three comparable sales ranging in sales price from \$33,000.00 to \$60,000.00, all 10.33 acres in size. After adjustments were made, the sales ranged from \$24,000.00 to \$42,000.00. Adjustments included location as Sales 2 and 3 were both located in a superior area. The subject has steep topography but access through a county road. All three sales were adjusted for inferior access and Sale 3 was adjusted for superior topography. The indicated subject property value is \$8,128.00 for the subject's 25% interest.

Regarding subject property Schedule R0091397, Jewett Placer, Respondent presented three comparable sales ranging in sales price from \$160,000.00 to \$390,000.00 and in size from 118.43 acres to 155.70 acres. After adjustments were made, the sales ranged from \$88,250.00 to \$125,265.00. Adjustments were made on all three sales for differences in acreage. Sales 2 and 3 were adjusted for superior access and Sale 3 was adjusted for superior location. Also Sale 2 was adjusted for superior topography. The indicated subject property value is \$16,198.00 for the subject's 50% interest.

Regarding subject property Schedule R0091850, New York Placer, Respondent presented three comparable sales ranging in sales price from \$160,000.00 to \$390,000.00 and in size from 118.43 acres to 155.70 acres. After adjustments were made, the sales ranged from \$221,265.00 to \$257,650.00. Adjustments were made for differences in acreage, access and topography. The indicated subject property value is \$76,556.00 for the subject's 33.33% interest.

Regarding subject property Schedule R0091394, Bed Rock, Respondent presented three comparable sales ranging in sales price from \$160,000.00 to \$390,000.00 and in size from 118.43 acres to 155.70 acres. After adjustments were made, the sales ranged from \$160,000.00 to \$200,420.00. Adjustments were made for differences in acreage, location, access and topography. The indicated subject property value is \$12,690.00 for the subject's 25% interest.

Respondent assigned a total actual value of \$139,520.00 to the subject properties for tax year 2009 as follows:

Schedule No.	Property Name-Interest %	Respondent's Assigned Value
R0090199	Dodge Union # 4-100%	\$ 7,576.00
R0090200	Union # 5-100%	\$ 4,965.00
R0091249	Zelma Placer-100%	\$13,407.00
R0091485	Collingswood-25%	\$ 8,128.00
R0091397	Jewett Placer-50%	\$16,198.00
R0091850	New York Placer-33.33%	\$76,556.00
R0091394	Bed Rock-25%	\$12,690.00

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

Petitioner did not provide the Board with comparable sales or sufficient evidence to refute Respondent's value conclusion for each of the properties. Respondent presented valuations using three comparable sales of similar mining claims and adjusted each of the sales for differences in physical characteristics. Petitioner contends the values are incorrect based on a lack of sufficient sales during the base period to warrant an increase in value. While the Board agrees several of Respondent's sales are from the extended base period, they reflect market trends and require a minimal degree of adjustment.

The Board does not have jurisdiction over the zoning regulations of Park County. The Board is convinced Respondent correctly used sales of similar mining claims with no Conditional Use Permit in place, the same as the subject properties.

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 8th day of September 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Debra A. Baumbach

Debra A. Baumbach

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

Heather Flannery

Heather Flannery

