

**This order has been superseded by an order on stipulation dated May 3<sup>rd</sup> 2012.**

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 52507**

Petitioner:

**FRED D. KIDDER III AND DIANN K. KIDDER,**

v.

Respondent:

**CHAFFEE COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on September 29, 2010, Diane M. DeVries and Karen E. Hart presiding. Fred D. Kidder III 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:

**17491 Reserve Drive, Buena Vista, Colorado  
Chaffee County Schedule No. R326923100258**

The subject property, Lot 10 of the Reserve at Cottonwood Creek, Filing 1, consists of a 1.19 acre vacant land parcel that has flat topography, no trees, and good mountain views. The subject property adjoins the Cottonwood Creek open space.

Petitioners are requesting an actual value of \$76,199.00 for the subject property for tax year 2009. Respondent assigned an actual value of \$146,484.00 for the subject property for tax year 2009 but is recommending a reduction to \$144,000.00.

Petitioners contend that the subject property has been overvalued and that Present Worth Discounting (PWD) should be applied to the subject property. Respondent contends that Petitioners' sales are not arms-length and that PWD is not appropriate for the subject property's filing within the subdivision.

Petitioners presented three comparable sales ranging in sales price from \$88,000.00 to \$120,000.00 and in size from 52,708 to 87,991 square feet. No adjustments were made to the sales. Petitioners' Comparable Sale 3 is the same sale as Respondent's Comparable Sale 2. Mr. Kidder testified that the subject property and his Comparable Sales 1 and 2 were auctioned on the same date, and he is not aware of any higher sales prices occurring since that time. Therefore, he believed they represent market sales.

Mr. Kidder believed that the entire subdivision, consisting of 40 lots, should be looked at as one for purposes of PWD. He believed his lot qualifies for discounting as only 29 of the 40 lots have sold, thus meeting the less than 80% sold threshold for PWD.

Regarding Respondent's sales, Mr. Kidder testified that he believes Respondent's Comparable Sale 3 was purchased by the neighboring lot owner to prevent someone from building on it. Additionally, it has an elevation drop from Trout Circle with private access to the common area pond and has a superior location next to the common area playground. Mr. Kidder believes Comparable Sale 3 is superior to his property in location and that the purchaser over paid for the property.

Petitioners are requesting a 2009 actual value of \$76,199.00 for the subject property, based on the average price per square foot of their three comparable sales.

Respondent's witness, Don Reimer, Professional Engineer, Director of Chaffee County Development Services and Chaffee County Engineer/Planning Director, testified regarding the subject property's subdivision filings and re-platting. When originally platted in 2001, the lots were required to be attached to municipal sewer services and have a central water system. Subsequent re-plattings occurred, which changed the number of lots, changed the sizes of lots, and removed the central water requirement. The subdivision has sewer service provided by the Buena Vista Sanitation District.

Lots 1-23 in Filing 1 remain their original sizes, up to 1.60 acres, and all subdivision improvements are completed. All of the lots in Filing 2 are over two acres in size, are on higher plains, and have less trees and access to the creek than Filing 1 lots. Filing 3 is located south of the creek and fronts a major access road, unlike Filings 1 and 2. Filing 3 had lot sales restrictions until September 2007. Filing 3 subdivision improvements were not completed until February 2008.

Respondent presented a value of \$144,000.00 for the subject property based on the market approach.

Respondent's witness, Dean C. Russell, a Registered Appraiser with the Chaffee County Assessor's Office, presented three comparable sales ranging in sale price from \$120,000.00 to \$186,500.00 and in size from 1.19 acres to 2.12 acres. After adjustments were made, the sales ranged from \$141,098.00 to \$146,481.00. A 0.56% per month time adjustment was applied, based on 168 vacant land sales that occurred in northern Chaffee County, including lots located in incorporated and unincorporated areas. Comparable Sales 1 and 2 were adjusted downward for size and upward for lack of adjacency to open space. Comparable Sale 3 was adjusted downward due to its location nearest to the creek.

Mr. Russell testified that the subject property has not changed size or configuration since the original filing. Filing 1 has smaller lots, good views, and is adjacent to and overlooks the Cottonwood Creek open space. Filing 2 consists of larger lots with good views, no trees, and more wind than lots in Filing 1. Filing 3 backs to the open space, slopes to the creek, and has building sites along the top of the lots; they are larger in size than Filing 1 lots. Due to all these differences, Mr. Russell looked at each filing separately regarding PWD. Filing 1 is sold out and therefore no longer qualifies for PWD.

Mr. Russell testified that Petitioners' Comparable Sale 1 had an actual sale date in 2005 and was an auction sale. Comparable Sale 2 was also a 2005 auction sale, and the property was subsequently re-platted to a larger size lot, making the sales price unrepresentative of the current legal description. Petitioners' Comparable Sale 3 is the same as Mr. Russell's Comparable Sale 2; however, Petitioners made no adjustments to the sale.

Respondent assigned an actual value of \$146,484.00 to the subject property for tax year 2009 but is recommending a reduction in value to \$144,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property's 2009 actual value should be reduced.

The Board gave little weight to Petitioners' sales as they are auction sales and considered to not be arms-length. The Board also gave lesser weight to Respondent's Sale 3 as it was purchased by the adjoining lot owner at the second highest price for a lot during the 18-month period. The Board is convinced that the buyer paid a premium for the lot due to its adjacency to his previously purchased lot.

The Board removed the time adjustment from the remaining two Respondent's sales as the adjustment was determined using vacant land sales that may not have been representative of the subject property's area, using sales from both incorporated and unincorporated areas of various sizes and locations. The resulting adjusted values were \$132,694.00 and \$129,184.00. The Board gave equal weight to each sale, indicating a subject property value of \$131,000.00 rounded.

Regarding PWD, Respondent presented sufficient evidence and testimony to convince the Board that each filing was sufficiently different from the others to allow discounting consideration on a filing basis. The subject property's Filing 1 was sold out, thus no longer qualifying for discounting.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$131,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$131,000.00

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 1<sup>st</sup> day of December 2010.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Karen E Hart

Karen E. Hart

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



<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket Number: 52507
Petitioner: <b>FRED D. &amp; DIANN K. KIDDER III</b>  v.  Respondent: <b>CHAFFEE COUNTY BOARD OF EQUALIZATION</b>	
<b>ORDER ON STIPULATION</b>	

**THE PARTIES TO THIS ACTION** entered into a Stipulation, which has been approved by the Board of Assessment Appeals. A copy of the Stipulation is attached and incorporated as a part of this decision.

**FINDINGS OF FACT AND CONCLUSIONS:**

1. Subject property is described as follows:

**County Schedule No.: R3269231000258**

**Category: Valuation      Property Type: Vacant Land**

- 2.
3. Petitioner is protesting the 2009 actual value of the subject property.
4. The parties agreed that the 2009 actual value of the subject property should be reduced to:

**Total Value:            144,000.00**

(Reference attached stipulation)

1. The Board concurs with the attached Stipulation.
2. This Order supersedes the Board's Order in this matter dated December 1, 2010.

**ORDER:**

Respondent is ordered to reduce the actual value of the subject property, as set forth in the attached Stipulation.

The Chaffee County Assessor is directed to change his/her records accordingly.

**DATED/MAILED** this 3rd day of May, 2012

**BOARD OF ASSESSMENT APPEALS**

*Diane M DeVries*

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Diane M. DeVries

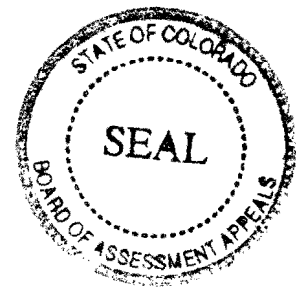
*Debra A Baumbach*

\_\_\_\_\_  
Debra A. Baumbach

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

*CM*

\_\_\_\_\_  
Cara McKeller



**BOARD OF ASSESSMENT APPEALS  
STATE OF COLORADO**

Docket Number: 52507

Single County Schedule Number: R3269231000258

2012 JUN 24

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STIPULATION (As to Tax Year 2009 Actual Value)

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Fred D. Kidder III and Diann K. Kidder

Petitioner,

vs

Chaffee COUNTY BOARD OF EQUALIZATION,

Respondent.

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Petitioner(s) and Respondent hereby enter into this Stipulation regarding the tax year 2009 valuation of the subject property, and jointly move the Board of Assessment Appeals to enter its order based on this stipulation.

Petitioner(s) and Respondent agree and stipulate as follows:

1. The property subject to this stipulation is described as:  
1.19 acre vacant land parcel

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2. The subject property is classified as vacant land (what type of property).

3. The County Assessor originally assigned the following actual value to the subject property for tax year 2009:

Land	\$	146,484.00
Improvements	\$	0.00
Total	\$	<u>146,484.00</u>

4. After a timely appeal to the Board of Equalization, the Board of Equalization valued the subject property as follows:

Land	\$	146,484.00
Improvements	\$	00
Total	\$	<u>146,484.00</u>



5. After further review and negotiation, Petitioner(s) and County Board of Equalization agree to the following tax year 2009 actual value for the subject property:

Land	\$	<u>144,000</u>	.00
Improvements	\$	<u>                    </u>	.00
Total	\$	<u>144,000</u>	.00

6. The valuation, as established above, shall be binding only with respect to tax year 2009.

7. Brief narrative as to why the reduction was made:  
Parties agreed on value following Court of Appeals decision.

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\_\_\_\_\_

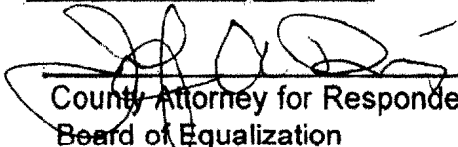
8. Both parties agree that the hearing scheduled before the Board of Assessment Appeals on April 23, 2012 (date) at 8:30 AM (time) be vacated or a hearing has not yet been scheduled before the Board of Assessment Appeals.

DATED this 3 day of APRIL, 2012.

\_\_\_\_\_  
Petitioner(s) or Agent or Attorney

Address:  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

  
\_\_\_\_\_  
County Attorney for Respondent,  
Board of Equalization

Address:  
104 Crestone Ave.  
P.O. Box 699  
Salida, CO 81201

Telephone: 719.539.2218

  
\_\_\_\_\_  
County Assessor

Address:  
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P.O. Box 699  
Salida, CO 81201

Telephone: 719.539.4016

Docket Number 52507

5. After further review and negotiation, Petitioner(s) and County Board of Equalization agree to the following tax year 2009 actual value for the subject property:

Land	\$	<u>144,000.00</u>
Improvements	\$	<u>          .00</u>
Total	\$	<u>144,000.00</u>

6. The valuation, as established above, shall be binding only with respect to tax year 2009.

7. Brief narrative as to why the reduction was made:  
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8. Both parties agree that the hearing scheduled before the Board of Assessment Appeals on April 23, 2012 (date) at 8:30 AM (time) be vacated or a hearing has not yet been scheduled before the Board of Assessment Appeals.

DATED this 3<sup>rd</sup> day of APRIL, 2012.

\_\_\_\_\_  
Petitioner(s) or Agent or Attorney

\_\_\_\_\_  
County Attorney for Respondent,  
Board of Equalization

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Dawn K. Kildner

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\_\_\_\_\_  
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Docket Number 52507