

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>KINGDOM PARK COURT LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 52900</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 16, 2010, Diane M. DeVries and Louesa Maricle presiding. Petitioner was represented by Robert L. Rosenfeld Jr., an owner of the LLC. Respondent was represented by Frank P. Celico, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**847 Airport Road, Unincorporated Summit County, Colorado  
Summit County Schedule No. 2801017**

The subject property is a 31-unit mobile home park that was developed in 1956, according to Respondent's records. It is situated on a 2.738-acre site in an unincorporated area of Summit County; the mailing address is Breckenridge, Colorado. Though the property is not within Breckenridge, the town borders the property on the north, east, and south sides. The site has level topography, typical mountain views, a paved access road, and has minimal landscaping and trees. The property relies on a private well for water, but has public electric, natural gas, and sewer services.

Petitioner is requesting a value of \$950,000.00 for tax year 2009. Respondent assigned a value of \$2,290,924.00.

Petitioner contends that Respondent has relied on sales that are located outside Summit County or occurred prior to the 2009 tax year base period, and Respondent has not correctly adjusted the sales for differences in size (number of units). Petitioner contends that Respondent has not given

adequate weight to the best comparable sale, Swan Meadow Village, which is a competitor of the subject property. Petitioner further contends that Respondent's analysis shows a large location premium for the subject property that is not supported and, finally, that the subject property is assessed at a much higher value than the other mobile home parks in the county.

Mr. Rosenfeld testified that there are only three mobile home parks in Summit County, including the subject property. The three range in size from 31 units (the subject property) to 175 units. Mr. Rosenfeld contends that larger mobile home parks sell for higher prices per unit than small parks, like the subject, because larger properties have operating expense efficiencies, are attractive to institutional investors, and debt financing is easier to obtain.

Of the three sales analyzed by Respondent, Mr. Rosenfeld testified that the 2004 sale of the subject property should not be relied on because it occurred prior to the 2009 base period, and the sale of a property in Steamboat Springs is too far away to be comparable. Mr. Rosenfeld testified that the 2007 sale of Swan Meadow Village is the best comparable sale for the subject property because it is the only sale in the base period that is also located in Summit County. Mr. Rosenfeld contends that Swan Meadow Village is superior to the subject property because of its larger size, age, amenities, and larger land area per unit, which accommodates larger mobile homes. Mr. Rosenfeld testified that Swan Meadow Village is a newer property, the design is more functional, and it has public water, which the subject does not. Therefore, the value of the subject property should be lower than the price per unit indicated by the Swan Meadow sale. Mr. Rosenfeld did not present other comparable sales as evidence. Petitioner concluded to a rounded value for the subject property of \$950,000.00 by taking the 2009 actual value per unit of \$30,627.00 assigned to the Swan Meadow Village property and multiplying it by the 31 units at the subject property.

Mr. Rosenfeld also presented an equalization argument, testifying that the assessed actual value per unit assigned to the subject is 237.9% higher than the sale price per unit for Swan Meadow Village, but the assigned values per unit for Swan Meadow Village and Farmers Korner's are only 98.6% and 91.9% higher than the Swan Meadow sale price. Mr. Rosenfeld contends that the 188.2% increase in the actual value of the subject property compared to increases of 30.6% and 48.4% for Swan Meadow Village and Farmers Korner's, respectively, demonstrates the inequality of the value assigned to the subject.

Mr. Michael W. Peterson, an appraiser with the Summit County Assessor's Office, testified as witness for Respondent. The witness completed two market approach analyses for the subject property, with one using sales of mobile home parks and the other using sales of vacant development land in Summit County, but outside the Town of Breckenridge. The witness also used the gross rent multiplier (GRM) method to estimate value.

Respondent's witness presented a market approach with three comparable sales of mobile home parks ranging in price from \$2,310,000.00 to \$5,436,554.00 and in size from 31 to 175 units. Because of the scarcity of sales of similar properties in Summit County and other mountain ski community areas, the witness used one sale in Summit County and one sale from Steamboat Springs which both occurred during the 2009 base period, and the 2004 sale of the subject property. Respondent's witness concluded there was not enough data to support an adjustment to any of the sales for changing market conditions (time). For each of the sales, the witness considered

adjustments including, but not limited to, size and location. To adjust the sales for differences in the number of units relative to the subject, Respondent's witness did a paired sales analysis of the three comparable sales to measure the range in sale price per unit between each of the sales, concluded to a median price differential per unit, and calculated an adjustment for the two non-subject property sales to account for the size differences. Respondent's witness also made an upward location adjustment to the Swan Meadow Village sale for its inferior location farther from ski runs, retail, and other community amenities, and services. After adjustments, the sale prices ranged from \$2,184,350.00 to \$2,842,893.00. Respondent's witness gave most weight to the 2004 sale of the subject property and concluded to a market value of \$2,310,000.00.

The analysis of vacant development land sales included the 2004 sale of the subject property, one sale that occurred during the base period and one that took place in 2006 during the extended base period. The properties ranged in size from 2.738 acres (the subject property) to 4.8539 acres and the sale prices ranged from \$2,310,000.00 to \$3,306,618.00. Respondent's witness considered adjustments to each sale including changing market conditions, size, access, water service, and location. The adjusted sale prices ranged from \$2,310,000.00 to \$2,479,964.00. The witness again gave most weight to the 2004 sale of the subject property and concluded to a value by this approach of \$2,310,000.00.

For the GRM method, Respondent's witness calculated the GRM for each of the three mobile home park sales used in the market approach, using the sale price and the rental information for each property at the time of sale. The indicated GRMs ranged from 3.68 to 10.19, with the lowest multiplier indicated by the property with the highest number of units. The witness gave most weight to the multipliers indicated by the previous sale of the subject property and the sale of the 68-unit property because it was closer to the subject in size. The witness applied a GRM of 9.70 to the 2004 annual gross rent for the subject and concluded to a value for the subject by this approach of \$2,435,670.00.

After considering these three valuation methods, Respondent's witness concluded to a market value for the subject of \$2,310,000.00 based on the 2004 sale price for the subject property. Because the witness's appraised value of the property is higher than the assigned value of \$2,290,924.00, Respondent requested that the Board uphold the assigned value of \$2,290,924.00.

The Board concludes that Petitioner failed to present sufficient probative evidence and testimony to prove that Respondent's valuation for the subject property for tax years 2009 was incorrect.

The Board cites the *Assessor's Reference Library*, Volume 3, in concluding that Respondent's use of a sale outside Summit County and the 2004 sale of the subject property is proper:

"All county assessors are required to gather sales derived from recorded deeds from the county clerk and recorder within the eighteen-month period ending on June 30th of the year prior to a year of change in the level of value pursuant to § 39-1-104(10.2), C.R.S. If a sufficient sample of qualified and confirmed sales cannot be collected from within the eighteen month period, data must be collected from as many preceding six month periods within the five-year data gathering period, as are

necessary, to obtain sufficient qualified sales to acquire adequate comparable valuation data. In any case, all sales must be time adjusted to the end of the data-gathering period.”

“If sufficient sales within the five-year period are not available within an economic area, the assessor should consider sales from other similar economic areas.”

The Board concludes that insufficient evidence was presented by Petitioner to support the claim that larger mobile home parks sell for higher prices per unit than smaller parks; the comparable sales presented indicate the opposite to be true. Also, developers face significant barriers to entry for new mobile home parks, so having an existing and legally operating mobile home park contributes significantly to the park’s value. Petitioner’s conclusion of value is based on the assessor’s actual value per unit for a competitor property and not on the market approach to value. In concluding that Petitioner has not used appropriate methodology to derive a value for the property, the Board cites the following:

“The actual value of residential real property shall be determined solely by consideration of the market approach to appraisal. A gross rent multiplier may be considered as a unit of comparison within the market approach to appraisal.” Section 39-1-103 5(a), C.R.S.

“Direct sales comparisons, with sales adjustments determined from market analysis, will be made.” *Assessor’s Reference Library* Volume 3.

Once the actual value of the subject property has been determined, the Board can then consider an equalization argument if evidence or testimony is presented that shows the Board that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Because the evidence and testimony demonstrating that each comparable was correctly valued was not presented, the Board gave little weight to the equalization argument presented by Petitioner.

The Board concludes that the paired sales methodology used by Respondent’s witness is not reliable because the three properties have other physical and location differences that are reflected in the sale price per unit figures used in the analysis. The paired sales process works only if the time adjusted sales are virtually identical properties except for one difference in physical characteristic, size for example, or only a difference in location. Because this is not the case for the sales used, the conclusion of the size adjustment per unit actually reflects more variables than just size. In this case, the additional application of a location adjustment to one of the sales has the effect of compounding the adjustment for that attribute. Respondent’s second market approach analysis of vacant development land sales is considered less reliable because evidence was not presented that the applicable zoning for two of the sales will allow mobile home park use.

For the GRM approach used, Respondent’s witness applied the multiplier conclusion to the annual gross rent the witness reported for the subject property at the time it sold in 2004. However, the witness should have applied the multiplier to the gross rent for the property as of the effective date of value for the 2009 assessment year. The Board concludes that failing to use the gross rent for

the correct period reduces the reliability of the GRM value indication presented. The gross income for the property as of the effective date of value was not presented, so the Board is unable to make the appropriate correction.

The Board appreciates the difficulty in appraising the subject property when little sales data are available. After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the most reliable indication of value is the 2004 sale of the subject property and further concludes that Respondent's assigned value accurately reflects a reasonable market value for the subject property.

### **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).

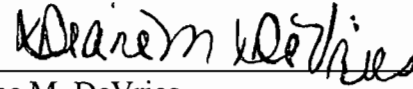
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 21 day of October 2010.

**BOARD OF ASSESSMENT APPEALS**



Diane M. DeVries



Louesa Maricle

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

  
Amy Bruins