

<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>BEAR CREEK DEVELOPMENT CORPORATION,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 54269</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 26, 2010, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Martin E. McKinney, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Vacant Land, Morrison, CO  
Jefferson County Schedule No. 037088**

The subject property consists of an irregularly-shaped vacant lot containing a total of 23.490 acres. The parcel is undeveloped and contains approximately one acre of a developable flat portion with the remaining 22.49 acres comprised of a steep-banked ravine and a steep slope upward on the backside of the Dakota Ridge Hogback. The parcel has public access from Morrison city streets.

Petitioner is requesting an actual value of \$105,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$347,640.00 for the subject property for tax year 2009 but is recommending a reduction to \$220,130.00.

Petitioner presented no comparable sales and no appraisal to support their value estimate.

Petitioner's witness, Ms. Kathryn Isenberger, who is legal secretary for Bear Creek Development Corporation, testified that Jefferson County should value the parcel using similar

methodology as it used with other nearby parcels owned by Bear Creek Development Corporation. Those parcels are at schedule numbers 037087 and 131984. She testified that an owner of an adjacent property has leased a portion of the subject for keeping horses at an annual rental of \$300.00 and that no other income is generated from the parcel ownership. She testified that the owner of subject property had attempted to get the parcel annexed to the town of Morrison but received severe opposition to this attempt from both public and private sources. She also testified that the site would need a well and septic system to be functional as a developable parcel. She testified that Respondent's comparable sales are not appropriate because of locations with superior views or in developed subdivisions or a planned community with paved streets. Her testimony indicated that the quality and appearance of nearby developed properties contained less desirable locations for single-family.

Petitioner's witness, Mr. Jeffrey N. Bradley testified that any water use for the subject would need to come from a well and not from the town of Morrison. He further testified that the parcel may not qualify for the installation of a well. He further testified that the parcel would need a septic system that could be difficult to install because of the subsoil conditions. He testified that the approximate cost to install a well and septic system could cost \$25,000.00 and a driveway would cost \$10,000.00 to \$15,000.00.

Petitioner is requesting a 2009 actual value of \$105,000.00 for the subject property.

Respondent presented a value of \$370,000.00 for the subject property based on the market approach.

Respondent's appraiser, Mr. David D. Niles appraised the developable portion of the subject as a single-family residential site. He presented four comparable sales ranging in sale price from \$260,000.00 to \$420,000.00 and in size from 1.002 to 2.023 acres. After adjustments were made, the sales ranged from \$285,000.00 to \$381,000.00.

Mr. Niles testified that the town of Morrison desires to annex the parcel and have it developed as residential. He testified that the availability of utilities is an issue with the subject and that if the town of Morrison did annex the parcel that city utilities would be made available. He testified that the parcel has been platted with lots and blocks. Mr. Niles testified that all of his comparable sales are located close to the hogback and that each sale has comparable acreage, topography and access.

Respondent assigned an actual value of \$347,640.00 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.

Petitioner relied on equalization in determining the value of the subject. The Colorado state constitution and statutes state that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). Once

the actual value has been determined, the Board can then consider an equalization argument if evidence is presented showing the Board that the assigned value of the equalization comparables were derived by appropriate application of the market approach to value and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gave little weight to the equalization argument presented by Petitioner.

The Board gave consideration to Petitioner's Exhibits eight, nine and ten showing aerial photos of Respondent's comparable sales. The Board agreed with Petitioner's witness, Ms. Kathryn Isenberger that Respondent's comparable sales appear to have superior local amenities in established residential subdivisions with improved streets.

The Board gave minimal weight to Respondent's comparable sales because they consist of vacant residential lots in existing residential subdivisions. The Board considered the subject parcel to have physical characteristics that are more representative of open space. The subject parcel contains a total of 23.490 acres, where only an approximate one-acre portion could be considered developable with a residence. The parcel contains a steep-banked ravine and a steep hill on the backside of the hogback.

The Board concluded that the 2009 actual value of the subject property should be adjusted downward to reflect the open space characteristic of the parcel. The Board concluded that the 2009 actual value of the subject property be reduced to \$150,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$150,000.00

The Jefferson County Assessor is directed to change their 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

