

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PAUL FAMILY TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55299</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 5, 2010, Louesa Maricle and MaryKay Kelley presiding. Petitioner was represented by Laurie Paul, Agent. Respondent was represented by Todd M. Starr, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Docket numbers 55296, 55297, 55298 and 55299 were consolidated for purposes of the hearing.

Subject property is described as follows:

**13983 County Road 326, Pagosa Springs, Colorado
Archuleta County Schedule No. 5705-204-00-019**

The subject property is a 2.53-acre vacant residential lot located in the rural Majestic Mountain Subdivision approximately 15 miles east of Pagosa Springs. Interior roads are gravel, and an estimated half of the subdivision's thirty-six lots are improved. The wooded lot is described as having generally level topography. The rear of the lot is adjacent to the Rio Blanco River and a portion of the lot is within a flood hazard area. An easement road serving a residential lot on the east side of the river bisects the subject lot, imposing development restrictions on the property. The property has electric service, a well, and a septic system.

Petitioner is requesting an actual value of \$44,275.00 for the subject property for tax year 2009. Respondent assigned a value of \$121,440.00 for the subject property.

Ms. Paul described the area as remote wilderness at 8,800 feet with severe winters and difficult access due to heavy snows, rutted roads, and six-foot berms created by snowplows. There are no nearby emergency services or fire protection. Ms. Paul testified that Respondent's sales cannot be considered comparable as they are located too far away. Petitioner further contends that the road easement and the potential for flooding cause the subject lot to have no building potential.

Ms. Paul presented one comparable lot sale described as a vacant 40-acre parcel, selling on January 10, 2007 for \$1,100,000.00 or \$27,500.00 per acre. Ms. Paul testified there is a discrepancy with Respondent over the size of this sale parcel, which Respondent shows to be a 20-acre site. Ms. Paul did not make adjustments to the sale for differences between that property and the subject site. Ms. Paul concluded that the \$27,500.00 per acre price indicated by this sale should be reduced \$10,000.00 because of Petitioner's opinion that flood potential for the subject property and the road easement cause this site to be unsuitable for building. Multiplying Petitioner's value conclusion per acre of \$17,500.00 by the 2.53-acre subject site, Petitioner concluded to a value of \$44,275.00 for the subject property.

Respondent presented a value of \$145,000.00 for the subject property based on the market approach. Mr. Robert G. Randolph, an appraiser with the Archuleta County Assessor's Office, testified as a witness for Respondent. Mr. Randolph presented three comparable sales ranging in price from \$65,500.00 to \$121,000.00 and in size from 1.01 to 1.44 acres. The witness testified that the sales were used because they had similar size, they too have river frontage, and though they are not in the same subdivision as the subject property, they are all located in mountain subdivisions in the Pagosa Springs area. The witness testified that the winter access conditions for the subject property are similar to those for all other mountain subdivisions. After adjustments for differences in location, utility services, and other physical characteristics, the sale prices ranged from \$131,500.00 to \$149,000.00. Considering all three sales, the witness concluded to a value for the subject of \$145,000.00. Respondent requested that the Board uphold the assigned value of \$121,440.00.

Petitioner failed to present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009. The flood plain area along the river affects only the eastern most portion of the site, and while the road easement does impact building site placement, the Board is not convinced the subject site has no building potential at all as asserted by Petitioner. Petitioner relied on the sale of a property that is significantly larger than the subject site without making market adjustments for the difference in size or other characteristics. Also, the disputed actual size of the sale parcel leaves the sale price per acre in question. The Board concludes that Petitioner's comparable sale does not support a different value. Respondent's sales, while not located within the immediate vicinity of the subject property, are affected by similar rural mountain conditions and are closer to the subject property in size. The Board concludes that Respondent's sales are reasonable choices for the market approach to value.

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).

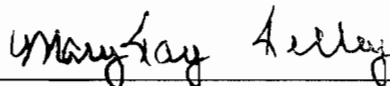
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 19 day of November 2010.

BOARD OF ASSESSMENT APPEALS

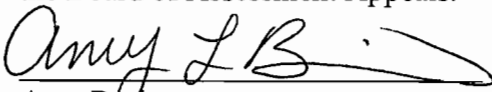


MaryKay Kelley



Louesa Maricle

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



Amy Bruins

