

<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>BRUCE E. &amp; CATHERINE B. RUSSELL,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>CLEAR CREEK COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 55647</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 1, 2011 Diane DeVries and Debra A. Baumbach presiding. Mr. Bruce Russell appeared pro se on behalf of Petitioners. Respondent was represented by Robert W. Loeffler, Esq. Petitioners are protesting the 2010 classification and actual value of the subject property.

Subject property is described as follows:

**The Raoul, USMS 20632, Parcel 183710200605, Idaho Springs, Colorado  
Clear Creek County Schedule No. R006149**

The subject property is an 18.10-acre patented mining claim, which is located off an old mining road located in a remote area of Clear Creek County. The elevation is approximately 10,480 feet. The property has an inferior location, access and view.

Petitioners are requesting an actual value of \$10,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$49,530.00 for the subject property for tax year 2010 but is recommending a reduction to \$37,830.00.

Petitioners' witness, Mr. Russell testified the subject property was reclassified from "Natural Resources" to "Vacant Land" for tax year 2010. Mr. Russell disagrees with the property's reclassification and value. The Raoul Mining Claim (The Claim) was purchased over 42 years ago with the possibility of mining the minerals. Subsequently, there has never been any mining on the

site, and it is not known if any minerals exist on the site. The condition and use of the property has not changed since the purchase.

The Claim is located in a remote undeveloped area that is over 10,450 feet in elevation. There are no suitable access roads, only trails accessed seasonally by four-wheel drive vehicles or by foot. There are no available utilities, and the biggest negative impact is the lack of water. It is considered unfeasible to build any residence or cabin because of the cost and issues with the site.

Mr. Russell did not present the Board with any comparable sales for consideration, choosing rather to comment on Respondent's sales. The comparable sales used by Respondent are superior in location, access, utility and represent higher values. Respondent did not adjust the sales sufficiently for the differences and adverse factors affecting the subject's site.

Petitioners are requesting a 2010 actual value of \$10,000.00 for the subject property.

Respondent's witness, Ms. Deborah Marie Chapman, Certified General Appraiser, presented an indicated value of \$37,830.00 using the market approach. Respondent presented three comparable sales ranging in sales price from \$42,500.00 to \$49,000.00 and in size from 5.00 acres to 8.38 acres. After adjustments were made, the sales ranged from \$37,830.00 to \$56,390.00.

All three sales used are also mining claims. Sales 2 & 3 are located the closest in proximity to the subject site, and Sale 1 is located the furthest. The subject site was considered inferior to the sales and adjustments were made for all differences in physical characteristics, and Respondent accounted for any adverse factors affecting the subject property. Sales 2 & 3 were also considered superior because there is available water. Additionally, there is construction of two homes located in the same area as Sales 2 & 3.

Respondent assigned an actual value of \$49,530.00 to the subject property for tax year 2010 but recommending a reduction to \$37,830.00.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly classified and valued for tax year 2010.

The Board found that Respondent's classification and value estimate was more reliable. Petitioners did not present the Board with any comparable sales or market data to refute Respondent's value or to prove the classification was incorrect. The Board was given no market-based adjustments or market estimates refuting that access issues and other characteristics indicate construction would be impossible.

Respondent made adjustments for all differences in physical characteristics and any factors affecting the subject and has recommended a reduction for the assigned value. While the Board agrees construction on the site would be difficult at best, a summer cabin would not be impossible.

The Board concluded that the 2010 actual value of the subject property should be reduced to \$37,830.00.

**ORDER:**

Respondent is ordered to reduce the 2010 actual value of the subject property to \$37,830.00.

The Clear Creek 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 7 day of April 2011.

BOARD OF ASSESSMENT APPEALS

*Diane M. DeVries*

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.

*Amy Bruins*

Amy Bruins

