

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TOLEDO AVENUE LLC</p> <p>v.</p> <p>Respondent:</p> <p>LAKE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55652</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 7, 2011, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner was represented by Joseph Fattor, Principal. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Docket numbers 55652 and 55638 have been consolidated for purposes of the hearing only. The parties stipulated to the size of the subject at 0.866 acre.

Subject property is described as follows:

**12713 CTL Mining Claim, Leadville, Colorado
Lake County Schedule No. 30032701**

The subject property, a patented mining claim, is a vacant parcel located in a neighborhood of mining claims overlaid by residential development. Its size, 0.866 acre, was determined by a pre-1900 mining survey; determination of precise location and legal boundaries requires a current survey. Residue from mining, one of many dump sites dating from Leadville's 1880's mining boom, is visible at the west end of the property. Triangular in shape, the parcel is bordered by improved lots and is without street access. Its narrow configuration may prohibit residential construction.

Petitioner is requesting an actual value of \$1,044.00 for the subject property for tax year 2010. Respondent assigned a value of \$35,838.00.

Mr. Fattor argued that the subject property's precise location and boundaries have not been verified by a current survey, may or may not lie within city limits, and may not access city water and sewer. Surrounded by other residential parcels, most of them improved, it has no street access and, therefore, no marketability as an independent parcel. Its narrow configuration may preclude a building footprint. Mr. Fattor argued that its prior value of \$1,044.00 (\$1,200.00 per acre), which originated in 1999 based on sales of mining claims between 1995 and 1999, should be retained.

Respondent's witness, Howard Tritz, Lake County Assessor, presented five comparable sales, relying on Sales 1 (\$15,000.00) and 5 (\$29,000.00) and concluding near mid-point of their prices per acre (\$250,000.00 and \$483,333.00) to derive a value of \$336,434.00. He then applied a rounded 50% adjustment to reflect location issues, resulting in an indicated value of \$165,000.00.

Mr. Tritz's testimony confirmed the subject has access to water and sewer and testified that the metes and bounds legal description has no impact on value.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2010.

The market approach is typically most reliable for valuing vacant parcels; however, the Board gives little weight to Respondent's application of near-averaging Sales 1 and 5. It considers Respondent's Sale 1 (0.06 acre at \$15,000.00) and Sale 5 (0.06 acre at \$29,000.00) to be the best indicators of value, but with little information about them, it has more confidence in assigning a value at the lower end of the range. The Board, noting the subject's "landlocked" location (lack of street access) and arguable inability to support a building site, applies a 50% adjustment for these negative influences. A value of \$7,500.00 is indicated.

The Board concluded that the 2010 actual value of the subject property should be reduced to \$7,500.00.

ORDER:

Respondent is ordered to reduce the 2010 actual value of the subject property to \$7,500.00

The Lake 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 15 day of April 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

MaryKay Kelley
MaryKay Kelley

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

Amy Bruins
Amy Bruins

