

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>WILLIAM C. AND KAREN L. VALAIKA,</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 57654</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 25, 2011, Sondra W. Mercier and Diane M. DeVries presiding. Petitioners were represented by Raymond Bowers, Agent. Respondent was represented by Rebekah King, Esq. Petitioners are protesting the 2008 actual value of the subject property.

Subject property is described as follows:

**141 Elk Run Road, Telluride, Colorado
Lot 28 Elk Run Subdivision
San Miguel County Schedule No. R1040086028**

The subject property is a 4.29 acre residential vacant land parcel located within the Elk Run Subdivision, a private gated community consisting of 31 home sites and several tracts of open space within 10 to 15 minutes from Telluride and ski and golf amenities of Mountain Village. The subject has a designated home site which is near the top of a ridge. Utilities at the site include electric service and natural gas. Water is provided by the homeowners' association and individual septic systems would be typical for homes within the subdivision.

Petitioners are requesting an actual value of \$900,000.00 to \$931,086.00 for the subject property for tax year 2008. Respondent assigned a value of \$1,155,000.00 for the subject property for tax year 2008.

Petitioner presented three comparable sales ranging in sale price from \$650,000.00 to \$1,000,000.00 and in size from 3.73 to 14.27 acres. No adjustments were made.

Raymond Bowers, agent for Petitioners, testified that there were no sales within the data gathering period of January 1, 2005 through June 30, 2006 within the Elk Run Subdivision. There were sales however in the Aldasoro and the Preserve Subdivisions that were used in his analysis.

Mr. Bowers stated that the subject is inferior in quality and demands a lower valuation for the subject time period. He believes that the views are inferior and the orientation of the slope of the building envelope is in the wrong direction. The edge of the building envelope of 60 feet by 120 feet is below the ridge line. Mr. Bowers used the analysis of "driving a car backwards" when building a house and described the orient of the house to be on the downhill side.

When comparing the subject lot to recent sales in Aldasoro, there are similarly sized lots that sold for more and for less. The premium top quality lots in Aldasoro are not justified as similarly valued lots without significant adjustments, whereas other similarly sized lots in Aldasoro with great views (not premium) are closer and more justified comparables.

Mr. Bowers stated that there is a comparable sale in the Preserve which is much closer in location and with much more similar view corridor and terrain, yet over three times the size of the subject. This lot sold for just \$1,000,000.00 despite the facts that the views are better and the size is much greater.

Respondent presented a value of \$1,250,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sale price from \$1,100,000.00 to \$1,300,000.00 and in size from 3.42 to 6.78 acres. After adjustments for time, location, view and topography were made, the sales ranged from \$1,130,800.00 to \$1,300,000.00.

Guy Poulin, Certified Residential Appraiser, presented Respondent's Exhibit A. He stated that views in some cases are not the predominate factor. In the subject area, the impact of the airport is objectionable to some owners. Mr. Poulin stated that the ridge does not impact the view like the Petitioner's Agent wants the Board to believe.

Respondent assigned an actual value of \$1,155,000.00 to the subject property for tax year 2008.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2008.

The Board determined that the subject property does experience some deficiencies. However, Respondent's witness properly adjusted the comparable sales for time, location, site size, view and topography.

In tax year 2009, the subject property value was reduced by 25% at the Assessor's level, the Petitioners' Agent believes that the same 25% should be applied to tax year 2008. This adjustment was done at the Assessor's level and was a part of the mass appraisal system. 2009 is within a different base period than the base period that is the subject of this hearing. When a property tax is appealed to the Board of Assessment Appeals, a "de novo hearing" is held and a site specific appraisal on the subject property is required. Every tax year is a year of its own for the property taxation purposes.

Additional adjustments made by Respondent for tax year 2008 more than sufficiently compensate for the subject's deficiencies asserted by Petitioners' Agent.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 23rd day of November, 2011.

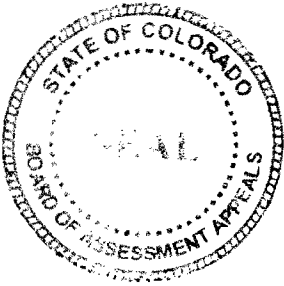
BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra W. Mercier

Diane M DeVries

Diane M. DeVries



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

Milla Crichton

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