

<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>JAMES R. &amp; DIANE R. FISHER LIVING TRUST,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GUNNISON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 57809</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on December 19, 2011, Sondra W. Mercier and Lyle D. Hansen presiding. Mr. James Fisher appeared pro se on behalf of Petitioners' living trust. Respondent was represented by Arthur Trezise, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**Lot 32, Red Mountain Ranch Subdivision  
Gunnison County Schedule No. R032395**

The subject property consists of a single-family residential lot containing a total of 35.102 acres. The lot is covered with forest and native grass. The lot has mountain views to the east and northeast. There is a driveway with natural materials as a surface.

Petitioners requested an actual value of \$350,000.00 for the subject property for tax year 2011 on the Petition and decreased their actual value to \$346,500.00 at the hearing. Respondent assigned a value of \$554,300.00 for the subject property for tax year 2011 but is recommending a reduction to \$480,000.00.

Petitioners' representative, Mr. James Fisher, presented two comparable sales ranging in sale price from \$700,000.00 to \$800,000.00 with both parcels having a total of 36.60 and 35.12 acres, respectively. No adjustments were made.

Mr. Fisher testified that the subject property is located in the lower portion of the Red Mountain Ranch Subdivision and that Respondent's comparable sales are located in the upper portion of the Subdivision. He testified that there were no comparable sales located in the lower area of the Subdivision that took place during 2009 and 2010. Mr. Fisher disagreed with the Gunnison County Assessor's time trend analysis that was included in the appraisal accomplished by Ms. Mary Mast of the Gunnison County Assessor's Office. He testified that the subject has been listed for sale during 2011 for \$399,000.00. Mr. Fisher testified that he did not engage the services of a Colorado registered or certified appraiser to support his value conclusion.

Petitioners are requesting a 2011 actual value of \$346,500.00 for the subject property.

Respondent presented a value of \$480,000.00 for the subject property based on the market approach.

Respondent's appraiser, Ms. Mary Mast, a Colorado Registered Appraiser with the Gunnison County Assessor's Office, presented five comparable sales ranging in sale price from \$700,000.00 to \$1,212,500.00 and in size from 35.102 to 36.6 acres. After adjustments were made, the sales ranged from \$445,525.00 to \$507,850.00.

Ms. Mast testified that the mountain views from the subject are inferior because the subject is located in the lower portion of the Subdivision as compared to the comparable sales located in the upper portion. She testified that she adjusted downward each comparable sale for superior mountain views. Ms. Mast testified that she adjusted each comparable sale downward for date of sale time trending during the base period.

Respondent assigned an actual value of \$554,300.00 to the subject property for tax year 2011 but recommends a reduction of the assigned value to \$480,000.00.

Sufficient probative evidence and testimony was presented to show that the assigned value for the subject property should be reduced to \$480,000.00 for tax year 2011.

The Board placed greater reliability upon Respondent's value estimate. The five comparable sales were adjusted for differences in date of sale, view amenity, driveway improvement and well amenity. The Board agreed with Ms. Mast's conclusion that comparable Sales One, Two, and Three were the best comparable sales because of the lowest net adjustments. The Board agreed with the Appraiser's adjustment analysis to the five comparable sales. The Board agreed with the Appraiser's final valuation and Respondent's recommended assigned value of \$480,000.00.

## **ORDER:**

Respondent is ordered to reduce the 2011 actual value of the subject property to \$480,000.00

The Gunnison 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 19th day of January, 2012.

**BOARD OF ASSESSMENT APPEALS**

\_\_\_\_\_  
Sondra W. Mercier

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Lyle D. Hansen

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

  
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Milla Crichton