

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TODD C. HENNIS,</p> <p>v.</p> <p>Respondent:</p> <p>LAKE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58016</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 13, 2012 James R. Meurer and Debra A. Baumbach presiding. Petitioner, Mr. Todd C. Hennis, appeared pro se. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2011 actual value of the subject properties.

Subject properties are described as follows:

4501 Humboldt
Lake County Schedule No. R10570201, R10570202, R10570203,
R10105702

2070 Lady May
Lake County Schedule No. R10570301, R10570302, R10570303
R10105703

4499 Blanche
Lake County Schedule No. R10507103, R10105701

The subject properties consist of three vacant land recreational mining claims known as the “Humboldt,” “Blanche,” and “Lady May.” The Humboldt claim is 8.396 acres, the Blanche is 10.202 acres and the Lady May consists of 10.27 acres for an aggregate of 28.87 acres. The sites are contiguous and located in the Sugarloaf mining District in Lake County. The terrain is steep with no road access or utilities.

Petitioner is requesting an actual value of \$20,000.00 for the subject properties for tax year 2011. Respondent assigned a value of \$66,828.00 for the subject properties for tax year 2011.

Petitioner contended that Respondent has overvalued the subject sites by relying on sales that occurred during the extended base period. Respondent's sales occurred in 2007 at the peak of the market indicating high value ranges. According to Petitioner, Respondent did not give adequate consideration to the market decline after its peak in 2007 and used no sales data within the statutory 18 month base period to value the subject properties.

Petitioner testified that he originally owned partial interests in each of the claims and was contacted by the neighboring land owners concerning a possible sale of their interests in the claims. Petitioner testified that it is a common practice that prospective buyers perform their own due diligence and title research when purchasing these types of properties. After a period of negotiating, a value of \$1,200.00 per acre was agreed upon by the parties. According to Petitioner, although the sales of the additional interests closed after the base period, the sale contracts were entered into during the base period and should be considered. Petitioner contended that the purchases of the remaining interests were arms-length transactions and should have been considered in Respondent's valuation model.

Petitioner did not present any comparable sales but discussed Respondent's comparable sales and argued why they were not suitable for comparison. Petitioner contended that Respondent relied on comparable sales of raw vacant land used for residential development. According to Petitioner, the sales of the remaining interests in the claims were valid and represent the best indicator of the subject properties' market value.

Petitioner contends that there is no direct access to the sites other than trespassing on public lands or obtaining an easement from nearby owners. The main access road leading up to the sites is poorly maintained and building supplies would have to be packed in to construct any type of summer cabin. The sites are accessible only during the summer months and there are no utilities available. Petitioner testified that the subject sites are overvalued considering the economic climate, limited access and the difficult ability to build.

Petitioner is requesting a 2011 actual value of \$20,000.00 for the subject properties.

Respondent's witness, Mr. Howard Tritz, a Lake County Assessor, presented an indicated aggregate value of \$66,828.00 using the market approach. Respondent presented three comparable sales ranging in sale price from \$22,500.00 to \$130,000.00 and in size from 10.2 to 56.15 acres. No adjustments were made to any of the sales and Mr. Tritz correlated to a median value of \$2,315.00 per acre.

Mr. Tritz indicated that there had been no sales of vacant recreational mining claims during the applicable 18 month base period. Therefore, the extended time frame was relied on for selecting the appropriate comparable sales. The Colorado statute allows Assessors to use the extended time frame to find suitable sales. Section 39-1-104(10.2)(a), C.R.S.

Mr. Tritz testified that the subject properties are considered vacant land recreational mining claims with residential use permitted by zoning. The County reclassified these types of sites from mining to recreational mining due to the high demand for construction of summer cabins. The subjects' increase in value is attributed to the reclassification of the sites. Other mines which are only used for mining are classified as industrial (mining); no residential use allowed for these types of mining claims.

The subject sites are contiguous, rectangular in shape, and with limited access. These types of sites throughout the county have similar topography, access issues, and any type of construction on the sites would require packing in. It is common in the county to have summer cabins that have no utilities and are accessible only by a 4-wheel vehicle or hiking in.

Respondent testified that the subject sites were valued according to comparable sales of other recreational mining claims. After the purchase of the other interest in the mines, Petitioner owns 100% of the sites allowing total control and utility. Mr. Tritze did not believe the sale of the remaining interest to be an arms-length transaction. The sales were only of partial interests and were not listed on the open market. The values for the subject sites are well below the values assigned for residential vacant land sites, taking into consideration the challenges associated with these types of sites.

Respondent assigned an actual aggregate value of \$ 66,828.00 to the subject properties for tax year 2011.

Respondent presented sufficient probative evidence and testimony to show that the subject properties were correctly valued for tax year 2011.

The Board concluded that Respondent's market approach was the most persuasive evidence presented at the hearing. Respondent relied on sales that took place during the extended base period which is permitted by the statute. The Board notes that zoning on a property is not determinative, but is only one of the factors to be considered when determining classification and valuation. The sales used to value the subject sites were of other vacant land recreational mining claims reflecting similar zoning and characteristics. Although Respondent made no adjustments for any differences affecting each of the sales, the subject properties' concluded value is well within the range presented by the comparable sales.

The Board was persuaded by Petitioner's argument that the economic climate had changed during the applicable time frame; however, Petitioner did not present any refutable sales data supporting Respondent's concluded value as overstated. The lack of appropriate comparable sales within the base period does not support the opinion that there was a decline in value ranges, just the lack of demand.

The Board was not convinced that Petitioner's purchases of additional interests were arms-length transactions. The sales occurred between business related parties and were not advertised on the open market. Additionally, the Board believes that some market diminishment could have occurred due to the fact that only partial interests in the sites were sold as opposed to the whole interests which affected the values. Petitioner did not present any alternative data other than the

information concerning the additional interests that he purchased to support the value of \$1,200.00 per acre as the subject's market value during the applicable base period.

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 30th day of January, 2012.

BOARD OF ASSESSMENT APPEALS

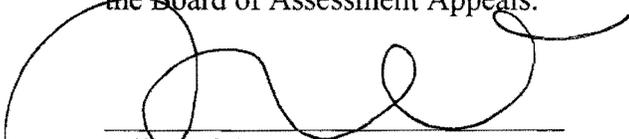


James R. Meurer

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.


Milla Crichton

