

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JACK ELLIOTT,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58147</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 15, 2011, Diane M. DeVries and Gregg Near presiding. Petitioner appeared pro se. Respondent was represented by Jennifer A. Davis, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**12848 CR 314-A
Buena Vista, Colorado
Chaffee County Schedule No. 3271223-00-052**

The subject property consists of a 0.68 acre vacant residential lot situated in unincorporated Chaffee County in Johnson Village, a small community south of Buena Vista straddling U.S. Hwy 285 at the junction with U.S. Hwy 24. The property is mostly level and borders a strip of open space that in turn borders the Arkansas River.

Petitioner is requesting an actual value of \$41,000.00 for the subject property for tax year 2011. Respondent assigned a value of \$96,899.00 for the subject property for tax year 2011.

Petitioner indicated there are several impediments to his future use of the property. There are incompatible improvements consisting primarily of mobile and modular homes that border the property. Petitioner pointed to the Colorado Department of Corrections facility located just west of his development as a negative influence on neighboring property values. Sewer service is within 400 feet of his property but due to engineering constraints it will cost \$18,000.00 to extend the lines and

install a lift system. The extension cost is totally the responsibility of the property owner as there are no adjacent properties that would benefit by this improvement. The subject property is also partially encumbered by a neighbor's leach field.

Petitioner stated he had enlisted a local real estate agent to aid in research for comparable sales. Petitioner presented one comparable sale of a 1.87 acre property with a similar location to his property. The sale occurred in March 2010 for \$35,000.00.

Petitioner presented comparable assigned values and questioned the Assessor's valuation procedures and adjustments.

Petitioner questioned Respondent's comparables. He indicated Respondent's Sale One was much larger and has direct access to the river. Sale Two is located 21 miles away and is also on the river and was indicated to be a better neighborhood by Petitioner's Realtor. Sale Three was deemed the most similar, but this property has all utilities and is at the end of a cul-de-sac.

Petitioner points to his purchase of the property in February 2011 as the reason he is requesting a 2011 actual value of \$41,000.00 for the subject property.

Respondent presented a value of \$100,000.00 for the subject property based on the market approach.

Respondent's witness, Dean C. Russell, a Registered Appraiser, presented three comparable sales ranging in sale price from \$65,500.00 to \$318,000.00 and in size from 0.34 to 3.95 acres. After adjustments were made, the sales ranged from \$92,061.00 to \$201,313.00.

Mr. Russell indicated the Arkansas River is a significant recreational resource. The river brings rafters and fishermen to the area thereby boosting tourism and benefitting Chaffee County. He stated that river front properties sell for twice as much as those not on the river. For this reason, he narrowed his comparable research to homes with river or creek frontage. There were limited sales within the base period.

Mr. Russell adjusted Sale Two for a declining market specific to the southern part of the Chaffee County. No adjustments were applied to the other sales for market conditions as they were in the northern part of the Chaffee County. The sales were then adjusted for size, location, site/view and river frontage.

Mr. Russell stated he considered Sale Three to be the best and concluded to a value of \$100,000.00. This is supportive of the assigned value for 2011.

Petitioner contends Respondent's sales are inadequate but agrees that Sale Three is the best overall. All of the sales are superior because they all directly connect to the river or a creek. Petitioner points to Mr. Russell's statement that he was unaware of Sale Two's "R-4" zoning as evidence the sale was not appropriate. Petitioner suggests Sale Three should have a lower value

because there is an irrigation ditch between the home and the creek. Petitioner also questions Respondent's adjustments as subjective.

Respondent states Petitioner's additional sale was not acceptable as it was a transfer to a government agency and there was more than one property involved. Proximity to the prison is not considered as having a negative impact on the property's value as the prison is one of the major employers in the county. The adjustments applied are based on over two hundred qualified sales in the county records and are reliable.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2011.

The Board was not compelled by Respondent's valuation of the subject property. The subject should not be considered as true river front land because the intervening strip of open space allows public access. Respondent's appraiser testified that there is no public access to the river for either Sale One or Sale Two without floating down the river. He also indicated that one cannot float the creek behind Sale Three.

The Board was not persuaded by Respondent's contention there were inadequate sales. If sales are found to be inadequate, the base period for research can, and should, be extended. In the Board's review of the sales reported, adjustments for location, lot size and site/view appear inconsistent and/or unsupportable.

The Board does agree that Sale Three is the most comparable. In the absence of supportable adjustments, the Board concludes that the 2011 actual value of the subject property should be reduced to the amount shown by Sale Three, \$65,500.00.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$65,500.00.

The Chaffee 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

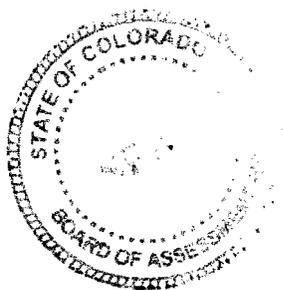
according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

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 28th day of December, 2011.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink, appearing to read "Diane M. DeVries".

Diane M. DeVries

A handwritten signature in black ink, appearing to read "Gregg Near".

Gregg Near

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

A handwritten signature in black ink, appearing to read "Mila Crichton".

Mila Crichton