

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAN G. HOWARD AND NORMAN KLASNA,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 59157</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 19, 2012, Diane M. DeVries and MaryKay Kelley presiding. Dan G. Howard appeared pro se for Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**N ½ SW ¼ NW1/4 & N ½ S ½ SW ¼ NW ¼ 31-8-68
TBD Jackson Creek Road, Larkspur, Colorado
Douglas County Schedule No. R0164179**

The subject is a vacant thirty-acre site located west of Perry Park Road in west central Douglas County. Terrain is steep, rocky and heavily treed. Access is seasonal and subject to permit via Jackson Creek Road through the Pike National Forest. The approximate one-mile trail from Jackson Creek Road requires a four-wheel drive vehicle and receives limited maintenance. Petitioners use the site for camping and hiking. Development is challenging and unlikely.

Respondent assigned a value of \$75,000 but is recommending a reduction to \$69,000. Petitioners are requesting an actual value of \$20,000.

Respondent’s appraiser made a site visit of Petitioners’ property on October 18, 2011. Petitioners hoped the visit would convince the appraiser of the site’s limited use and lack of marketability and would be a convincing argument to retain the subject’s actual value as assigned in 2009.

Petitioners' requested value was also based on an appraisal performed by Kerry Dunn, Certified Residential Appraiser, for the 2009 tax year appeal. It included two 2008 sales (3.4 and 3 acres) and one 2002 sale (40 acres) and concluded to a value of \$20,000. Mr. Dunn, unavailable at this hearing, wrote a letter on May 12, 2012 stating that more recent comparable sales could not be identified, that marketability was limited, that values have declined, and that the subject's value would likely be less than previously estimated.

Respondent presented a value of \$69,000 for the subject property based on the market approach. Respondent's witness, John E. Whitley, Licensed Appraiser, presented five comparable sales ranging in sale price from \$100,000 to \$410,000 and in size from 37.867 to 160 acres. Sales Two (37.867 acres) and Three (40 acres) were given most weight due to their similarity to the subject. Each sold for \$100,000 (\$2,641 and \$2,500 per acre, respectively). Both had more difficult access than the subject site but more level terrain, these two factors considered offsetting. Mr. Whitley applied 10% adjustments to both for surface water (creeks), which carry marketability and value. He concluded to a value of \$2,300 per acre for the subject site.

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

Although Mr. Dunn, Petitioners' appraiser, was unavailable for testimony or cross examination, the Board has reviewed his appraisal. Sales One and Two are given no weight due to their 3.4 and 3 acreages, markedly different than the subject's 30 acres. Sale Three is given no weight due to its 2002 sale date.

The Board considers Respondent's Sales Two and Three to be comparable to the subject property in acreage, terrain, and lack of development potential. Mr. Whitley's 10% adjustment for surface water is considered appropriate.

The Board is convinced that the subject site is seasonal, difficult to access, and likely unbuildable. Respondent's two sales are similar and confirm marketability.

ORDER:

The petition is granted. Respondent is ordered to reduce the 2011 actual value of the subject to Respondent's recommended value of \$69,000. The Douglas 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).

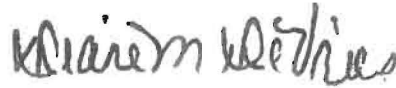
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

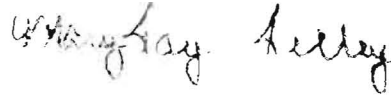
Section 39-8-108(2), C.R.S.

DATED and MAILED this 29th day of November, 2012.

BOARD OF ASSESSMENT APPEALS

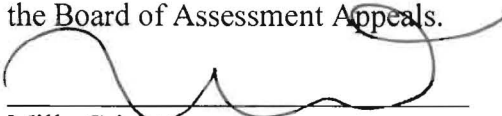


Diane M. DeVries



MaryKay Kelley

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


Milla Crichton