

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DEREK VAN ATTA,</p> <p>v.</p> <p>Respondent:</p> <p>MONTEZUMA COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 60476</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 20, 2012, Louesa Maricle, MaryKay Kelley, and Brooke B. Leer presiding. Petitioner appeared pro se. Respondent was represented by Robert Slough, Esq. Both Petitioner and Respondent appeared and testified by telephone. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2011.

Subject property is described as follows:

**Lots 1(A) and 3(B), Rogue Ranch Subdivision, Road P2, Mancos, CO
Montezuma County Schedule Numbers: 5607-043-03-001 and 5607-043-03-003**

The subject property consists of two vacant lots of about 35 acres each. The lots are in the Rogue Ranch Subdivision about seven miles northwest of Mancos, Colorado. The lots within the Rogue Ranch Subdivision share an abundance of Juniper, Ponderosa Pines, Oak trees, meadows, and plenty of wildlife; most lots have great building sites with great views.

Petitioner is requesting an actual value of \$70,000 for Lot 1(A) and \$60,000 for Lot 3(B) for tax year 2011. Respondent assigned a value of \$115,500 for each of the subject lots.

Mr. Van Atta described in a letter to the Board that the subject subdivision had no building activity since the lots were purchased, about 6 years ago. He testified that the Rogue Ranch Subdivision had been a part of a financial scam that had affected the desirability of the

area in general. The area was described as dead and ghost like and at least a five year supply of lots were for sale in the subject subdivision.

Mr. Van Atta mentioned three lots that had sold after the data collection period of June 30, 2010 in the Rogue Ranch Subdivision. He wanted the Board to consider this information for a reduction in the value of the lots. The sales presented by Petitioner ranged in sale price from \$55,000 to \$100,000. The sale at \$100,000 was a waterfront lot and had better views than the subject lots according to Mr. Van Atta.

Mr. Van Atta said that the subject subdivision has suffered a significant amount of stigma from the financial scam that took place several years ago and the County had not considered this in their valuation of the subject lots. Mr. Van Atta had the subject lots listed for sale for four years at a price below the County's valuation of \$115,500 and they have not sold.

Respondent presented a 2011 indicated value of \$150,000 for each of the two subject property lots based on the market approach. An appraisal prepared by Cynthia L. Claytor, a Certified Residential Appraiser, was submitted as evidence of value for the subject lots.

Ms. Claytor did not find adequate data within the 18 month data collection period of January 1, 2009 to June 30, 2010 to value the subject lots. As permitted by statute, Section 39-1-104(10.2) (d), C.R.S., she went back in six month increments to gather additional comparable sales. Three sales were used; two of the sales took place in April and May 2008 and one sale occurred in February 2009. The sales ranged in price from \$144,500 to \$165,000, and in size from 35.10 to 35.57 acres. No adjustments were made to the sales. Ms. Claytor did not think the Rogue Ranch Subdivision suffered stigma nor did she adjust for the timing of the sales. The value of the lots based on her analysis was \$150,000 each.

Petitioner did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2011. The sales data cited by Petitioner was selected after the June 30, 2010 collection period. That data can be used for the 2013 valuation if Petitioner so chooses.

The Board could not determine from Respondent's report if time adjustments were warranted for the older sales data used or if location adjustments were important for the circumstances surrounding the Rogue Ranch Subdivision initial sales. A stigma, if present, would be reflected in sale prices. The report was very brief and contained limited support for the value of the subject lots.

The Board did not find that Petitioner provided appropriate sales data to refute the value conclusions presented by Respondent. Since Petitioner did not meet his burden of proof to show that the value represented by the County was flawed, the Board upholds Respondent's assigned value of \$115,500 per lot.

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).

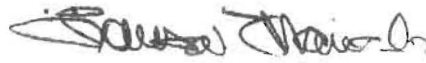
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

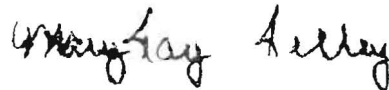
Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of August, 2012.

BOARD OF ASSESSMENT APPEALS



Louesa Maricle

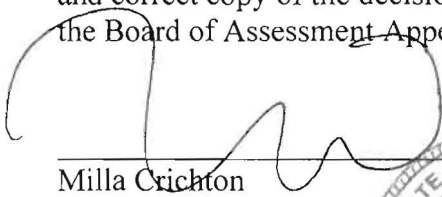


MaryKay Kelley



Brooke B. Leer

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



Milla Crichton

