

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Numbers:
60789, 60790 & 60791**

Petitioner:

**DOCKET 60789: MAURICE O. REIBER
DOCKET 60790: PARK-LAKE RESOURCES LLC
DOCKET 60791: EARTH ENERGY RESOURCE LLC,**

v.

Respondent:

PARK COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 20, 2012, Diane M. DeVries and Gregg Near presiding. Petitioners appeared pro se. Respondent was represented by Marcus McAskin, Esq. Petitioners are protesting the 2012 actual value of the subject property.

Docket numbers 60789, 60790 and 60791 were consolidated for purposes of the hearing. Petitioners included John Reiber and Maurice Reiber.

Subject property is described as follows:

**Non-Producing Patented Mining Claims
Various Mining Districts in Park County Economic Area 06**

| Schedule No. | Property Name | % Interest | Acres |
|---------------------|----------------------------|-------------------|--------------|
| R0091046 | LITTLE HELEN | 33.33% | 10.33 |
| R0091146 | MINERAL RANCH | 100% | 6.925 |
| R0091799 | BUCKSKIN PLACER | 25% | 8 |
| R0091813 | PRATT/WHIPPLE | 50% | 12.91 |
| R0090422 | MAMMOTH | 100% | 8.99 |

The subject property consists of a total of 47.158 acres. The claims vary in quality of access; ground cover; proximity to water (stream or pond); neighborhood and topography.

Petitioners are requesting an actual value of \$90.00 per acre for the subject property for tax year 2012.

Petitioners presented approximately 200 comparable purchases of similar claims they acquired during the period from June 2007 to November 2010. The sales ranged in sale price from \$0.12 to \$939.92 per acre and in size from 0.0099 to 37.5 acres. The majority of the transactions involved treasurers or personal representative deeds.

No adjustments were made. Petitioners pointed to the vast majority of the transactions resulting in a price of \$90.00 per acre. They consider this to be the appropriate unit price to be used in the determination of market value to be applied to their property.

Petitioners indicated their purpose in these acquisitions has been for mining and no other reason. They pointed to a pattern of purchases of mining claims that began over 60 years ago by Maurice Reiber.

Petitioners also presented an equalization argument and noted disparities between the valuations of their percentage ownerships of the same parcel of land. They disputed the equality of valuations when their percentage ownership of a portion of the same property is valued at a higher number than for the ownership of the other portion.

Petitioners are requesting a 2012 actual value of \$90.00 per acre for their ownerships. This results in a total value of \$2,483.16.

Respondent's witness Ms. Kristy Gould, Park County Deputy Assessor, testified the subject properties are all located below 11,500 feet in elevation. No building improvements are allowed on mining claims above 11,500 feet in elevation by Park County zoning regulation. There were 22 sales of 100% ownership below that elevation within the valuation period. The available sales were all considered in relation to their topography, access, ground cover and stream or pond amenity. Unless a claim is actively mined it is valued on surface use.

Respondent presented a value of \$124,036 for the subject property based on the market approach. The values are summarized as follows:

| Schedule No. | Property Name | % Interest | Acres | \$/Acre | Subject Value |
|--------------|-----------------|------------|-------|---------|---------------|
| R0091046 | LITTLE HELEN | 33.33% | 10.33 | \$2,233 | \$7,681 |
| R0091146 | MINERAL RANCH | 100% | 6.925 | \$5,070 | \$35,112 |
| R0091799 | BUCKSKIN PLACER | 25% | 8 | \$9,540 | \$19,079 |
| R0091813 | PRATT/WHIPPLE | 50% | 12.91 | \$8,835 | \$57,028 |
| R0090422 | MAMMOTH | 100% | 8.99 | \$571 | \$5,136 |

Regarding schedule no. R0091046, LITTLE HELEN, Respondent presented three comparable sales ranging in sales price from \$41,000 to \$85,930 and in size from 9.82 to 10.29 acres. After adjustments were applied the sales ranged from \$37,000 to \$63,390. This was determined to be supportive of the mass valuation conclusion of \$23,066.

Regarding schedule no. R0091146, MINERAL RANCH, Respondent presented three comparable sales ranging in sales price from \$41,000 to \$85,930 and in size from 9.82 to 10.29 acres. After adjustments were applied the sales ranged from \$22,400 to \$49,330. This was determined to be supportive of the mass valuation conclusion of \$35,112.

Regarding schedule no. R0091799, BUCKSKIN PLACER, Respondent presented three comparable sales ranging in sales price from \$15,000 to \$85,930 and in size from 6.55 to 10.01 acres. After adjustments were applied the sales ranged from \$41,300 to \$84,030. This was determined to be supportive of the mass valuation conclusion of \$76,316.

Regarding schedule no. R0091813, PRATT PLACER & WHIPPLE PLACER, Respondent presented three comparable sales ranging in sales price from \$187,500 to \$525,000 and in size from 17.56 to 39.32 acres. After adjustments were applied the sales ranged from \$162,368 to \$409,958. This was determined to be supportive of the mass valuation conclusion of \$114,056.

Regarding schedule no. R0090422, MAMMOTH, Respondent presented three comparable sales ranging in sales price from \$22,500 to \$60,000 and in size from 5 to 10.29 acres. After adjustments were applied the sales ranged from \$4,805 to \$19,300. This was determined to be supportive of the mass valuation conclusion of \$5,136.

Respondent assigned an actual value of \$124,036 to the subject property for tax year 2012.

Petitioners contend the Assessor has failed to consider their intended use of the properties for mining and unfairly compared them to residential development sites. The properties contain geologic hazards that in some cases preclude any use other than mining. Petitioners contend the County zoning regulation regarding elevation is unfair. Petitioners also contend, in the case of the PRATT & WHIPPLE PLACERS and the MINERAL RANCH, where they own a percentage interest, that the co-owners of the shared properties are paying a lower tax and the amounts should be equal for all co-owners.

Respondent contends this is Petitioners' second bite at the apple since all of the properties under question, with the exception of the MAMMOTH, were appealed to the BAA in 2011 and the values assigned by the County were confirmed as a result of that hearing. Respondent also points to Petitioners' use of treasurer's deeds and personal representative deeds as unacceptable indicators of market value. Respondent also represents that most of Petitioners' argument is based, inappropriately, upon equalization.

Petitioners presented sufficient probative evidence and testimony to prove that the subject properties was incorrectly valued for tax year 2012.

The Board agreed with the valuations presented by the County for schedule no. R0091046, LITTLE HELEN; schedule no. R0091813, PRATT PLACER & WHIPPLE PLACER and schedule no. R0090422, MAMMOTH.

The Board disagrees with the valuations for schedule no. R0091146, MINERAL RANCH and schedule no. R0091799, BUCKSKIN PLACER. The Board commends the Park County Assessor for its efforts in the development of site specific appraisal reports but finds the process to be flawed in the above cases.

The Board has placed reliance upon Petitioners' Exhibit L, the "Assessor List of Comparable Properties". In the case of the MINERAL RANCH Respondent's Comparable 1 is incorrectly reported as having equal access to the subject when in fact it is reported to have superior access in Exhibit L. The Board is also troubled by Respondent's reliance upon bulk adjustments. The most grievous of these actions is seen in Respondent's adjustment for water feature of \$18,000 which represents 44% of the total value of Comparable 1 but only 21% of Comparable 2. The Board has considered the sales presented as well as three additional sales within Exhibit L, applied appropriate adjustments to all the sales and determined a value per acre of \$3,100.

In the case of schedule no. R0091799, BUCKSKIN PLACER, the Board has found similar disparities. Comparable 2 is adjusted 93% of total value due to locational differences suggesting to the Board this is not a comparable property. Bulk adjustment for ground cover resulted in a 7% adjustment to Comparable 1 and a 40% adjustment to Comp 2. The Board has considered the sales presented as well as three additional sales within Exhibit L, applied appropriate adjustments to all the sales and determined a value per acre of \$6,000.

The Board does not have jurisdiction over the preservation of mining claims or the zoning regulations of Park County. Classification is not at issue as the subject properties are classified as non-producing patented mining claims. The only issue is valuation and the market dictates the most probable use and corresponding value of the subject properties.

ORDER:

Respondent is ordered to reduce the 2012 actual value of the MINERAL RANCH property to \$21,468.

Respondent is ordered to reduce the 2012 actual value of the 25% interest in the BUCKSKIN PLACER property to \$12,000.

The Park 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 14th day of January, 2013.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Gregg Near

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

Milla Crichton