

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>RICCO R. AND JANET L. GALLEGOS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 61161</b></p>
<p><b><i>AMENDED ORDER</i></b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on July 16, 2013, Debra A. Baumbach and MaryKay Kelley presiding. Ricco R. Gallegos appeared pro se on behalf of Petitioners. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioners are protesting the 2012 actual value of the subject property.

Subject property is described as follows:

**445 Crooked Pine Trail, Evergreen, Colorado  
Jefferson County Schedule No. 200303**

The subject property consists of ten acres and a residential dwelling built in 1996. Nine of the ten acres are leased for grazing and are classified agricultural for tax year 2012. The remaining one acre, on which the house is located, is classified residential and is the subject of this appeal; Petitioners are not contesting classification but are contesting value for the acre with the residential improvement.

Respondent assigned a value of \$555,946 for the one acre with the residence for tax year 2012 but is recommending a reduction to \$475,000. Petitioners are requesting a value of \$400,000.

Mr. Gallegos described the subject property as being negatively impacted by power lines, which are located on his land and visible from the residence, and by two roads within property boundaries with easements for the telephone company and the county to access open space. These easements, along with wildlife corridors, limit land use and affect marketability and value.

Mr. Gallegos presented two comparable sales, both with residential improvements: 403 Quarter Circle Lane, which sold for \$372,500 on April 15, 2010 (9.83 acres); and 7953 Citation Trail, which sold for \$405,000 on March 1, 2010 (2 acres). Relying on the first sale due to its proximity to the subject, Mr. Gallegos concluded to a value of \$400,000.

Respondent offered two witnesses, each with a market analysis of the subject property.

Respondent's witness, Stephen C. DeBell, Certified Residential Appraiser, valued the residential improvement on the entire ten acres. He presented three comparable sales: Sale One (2.527 acres), which sold for \$429,800; Sale Two (1 acre), which sold for \$490,000; and Sale Three (5 acres), which sold for \$669,000. After adjustments were made, the sale prices were \$414,300, \$488,800, and \$493,700, respectively. He concluded to a value of \$475,000.

Respondent's witness, Tammy Crowley, Certified General Appraiser, also valued the residence on ten acres. She presented three comparable sales: Sale One (10 acres), which sold for \$635,000; Sale Two (12.620 acres), which sold for \$612,000; and Sale Three (10.963 acres), which sold for \$615,000. After adjustments were made, the sale prices were \$528,700, \$578,130, and \$528,800, respectively. She concluded to a value of \$545,000.

Referencing the assigned value of \$555,946, Ms. Crowley noted the mass-appraised delineated value of the residence at \$399,460. She estimated value of the subject's one acre at \$100,000 based on six land sales ranging in price from \$106,000 to \$362,000 and in size from 1.091 to 1.939 acres; after adjustments, the prices ranged from \$67,505 to \$157,968. She concluded to a value of \$499,460 (\$399,460 for the residence and \$100,000 for the land).

Ms. Crowley concluded to a recommended value of \$475,000 based on Mr. DeBell's report. Her two value estimates of \$545,000 and \$499,460 support the recommended value.

Neither Mr. DeBell nor Ms. Crowley considered the power lines or road easements to adversely affect the subject's value.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value.

The Board is convinced that the subject property's power lines and access roads likely carry some negative impact on land use and privacy, thereby affecting marketability, and value when compared to sites without similar easements. Petitioner did not provide any market data with which to determine the impact.

While the assessor is required to value the improved one-acre residential parcel separately from the remainder of the subject's nine acres classified as agricultural, the legal and economic entity is a ten-acre improved parcel; the one-acre parcel, as it existed on January 1, 2012, was not an independent legal entity. A hypothetical valuation, therefore, is warranted, and the Board is convinced that value should include the positive impact of the adjoining nine acres, which provide privacy and utility in comparison to stand-alone sites.

The following sales of improved properties are most similar in land size to the subject's one acre: Respondent's adjusted Sale One at \$414,300 (2.527 acres); Respondent's adjusted Sale Two at \$488,800 (1 acre); and Petitioners' adjusted Sale Two at \$396,900 (2 acres - sale price of \$405,000 minus basement finish at \$9 per square foot).

Neither party provided market data for the impact of the adjoining nine acres to the residential parcel. None of the above sales, ranging in adjusted values from \$396,900 to \$488,800, reflect the positive impact of the adjoining nine acres. The Board was provided with no convincing evidence or testimony to support a lower value than that recommended by Respondent.

### **ORDER:**

Respondent is ordered to reduce the 2012 actual value of the subject property to Respondent's recommended value of \$475,000.

The Jefferson 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 13th day of August, 2013.

BOARD OF ASSESSMENT APPEALS

*Debra A. Baumbach*

Debra A. Baumbach

*MaryKay Kelley*

MaryKay Kelley

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

*Milla Lishchuk*

Milla Lishchuk

