

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LARRY B. FUNK,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62050</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 2, 2013, Diane M. DeVries and Gregg Near presiding. Petitioner appeared *pro se*. Respondent was represented by David Frankel, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**Vacant Land
1855 Highway 340
Grand Junction, Colorado
Mesa County Schedule No. R014842**

The subject property consists of 35.11 acres of vacant land situated in the Redlands neighborhood nearby the Colorado National Monument. The property is accessed via a private easement. Public water and underground electrical utilities are located within the property boundaries. The land rises in elevation towards the south and east. The lower portions are cut by arroyos that only flow intermittently in periods of heavier rainfall.

Petitioner is requesting an actual value of \$150,000 for the subject property for tax year 2013. Respondent determined a value of \$421,300 for the subject property for tax year 2013 but is recommending a reduction to the CBOE value of \$239,430.

Petitioner presented no comparable sales at the hearing. Petitioner indicated to the Board that he discussed the property with two different real estate agents. One agent suggested an asking price

of \$150,000 and the second was unwilling to take on the listing. Mr. Funk pointed to difficulty navigating the property due to constant wash-outs of the road and steep slopes. The lower portion of the land is situated within a flood area and is unbuildable. Petitioner stated most of the flood area contains expansive soils making it even less suitable for development. Mr. Funk indicated the only reasonable building site on the property was situated to the east. Because the only building site is located on steep terrain, the building site must be accessed via a road subject to frequent wash-outs. Extension of utilities to this area would be onerous and the property is considered unbuildable. Mr. Funk expressed sympathy with the County as he was of the opinion there were no comparable properties to the subject. Mr. Funk stated his neighbor's property had been for sale for several years at prices from \$250,000 to \$275,000. Mr. Funk also noted that the covenants on the property required development of a minimum improvement of 2,200 square feet.

Petitioner is requesting a 2013 actual value of \$150,000 for the subject property.

Respondent presented a value of \$421,300 for the subject property based on the market approach.

Respondent's witness Lori DeCrow, a Certified General Appraiser, presented three comparable sales ranging in sale price from \$139,900 to \$1,315,000 and in size from 11.79 to 125.00 acres. Prior to adjustments, the comparable sales indicated a range from \$10,520 to \$11,865 per acre. After adjustments were made, the sales ranged from \$10,440 to \$14,270 per acre.

Ms. DeCrow testified the Redlands neighborhood has a higher value than the median for Mesa County and it was therefore necessary to narrow the comparable sales to that location. Ms. DeCrow stated she had visited the property several times and specifically observed it following a rain. The property was traversable without resorting to a 4-wheel drive and she also indicated the property is not within a floodplain. Ms. DeCrow noted the property has an extended boundary with the Colorado National Monument.

Sale 1 was stated to be the most comparable with similar topography, access off a dirt road and an upper portion that is difficult to access. Sale 2, containing 125 acres, has similar topography and proximity to the Monument but is also on a highly traveled road. Sale 2 also faces limited access to the majority of the property as access must be developed over a floodway. Sale 3 is located on the bluff above the Colorado River with only a single building site situated at the entry corner of the property. Sale 1 had the fewest adjustments and was given most weight in the reconciliation. A unit value of \$12,000 per acre was determined and a final estimate of \$421,300 was concluded.

Petitioner contends there are no comparables for his property. The entire property is unbuildable due to intermittent flooding, difficult access and elevated terrain. Petitioner purchased the property from the previous owner who had failed in his attempts to develop the property. Petitioner also objects to Respondent's comparable sales as both Sale 2 and Sale 3 are not accessed via easements. Petitioner also questions why Sale 3 was not adjusted for its riverfront location.

Respondent contends the property can be developed judged by nearby homes constructed on similar terrain. The property is not within a floodplain; the comparable sales were all within the same

neighborhood; the sales occurred within the valuation period and all shared similar limitations. Respondent also dismisses Petitioner's use of local realtor's opinions as hearsay. Respondent's appraiser disputed Petitioner's reported list price for the neighbor's property having found it to be much higher. Ms. DeCrow also questioned Petitioner's Exhibit 20 having found sale prices exceeding the \$3,000 - \$4,000 range reported by the Petitioner's real estate agent.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Board of Assessment Appeals v. Sampson*, 105 P.3d 916, 920 (Colo. App. 2002). Petitioner did not meet that burden. While the Board does not diminish the difficulties encountered by Petitioner in his attempts at development, Petitioner presented an insufficient amount of evidence to persuade the Board that the value assigned by Respondent is incorrect. Petitioner's entire case consisted of unsupported and unverifiable opinions by real estate agents and Petitioner's dismissal of Respondent's comparables.

On the other hand, Respondent provided an appraisal report that satisfactorily supported the analysis, judgment and reasoning that led to a final value. Further, whatever concerns the Board may have of Respondent's value opinion, they are unlikely to result in so significant an adjustment as to justify a further downward revision of the CBOE value.

ORDER:

The petition is denied. The Board upholds the CBOE value of \$239,430.

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-nine 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-nine 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.

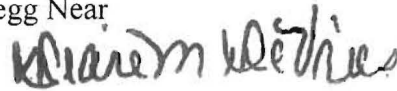
Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of December, 2013.

BOARD OF ASSESSMENT APPEALS

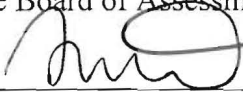


Gregg Near



Diane M. DeVries

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



Milla Lishchuk

