

<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>BEVERLY M. WHEELER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GILPIN COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 62058</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 1, 2013, Brooke B. Leer and Debra A. Baumbach presiding. Petitioner appeared *pro se*. Respondent was represented by Brad Benning, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

- Lot: 4 Wheeler Subdivision  
Gilpin County Schedule No. **R005703**
- Lot: 6A Mountain Meadows Subdivision  
Gilpin County Schedule No. **R009697**
- Lot: 5 Mountain Meadows Subdivision  
Gilpin County Schedule No. **R009698**
- Lot: 4 Mountain Meadows Subdivision  
Gilpin County Schedule No. **R009699**
- Lot: 1 Mountain Meadows Subdivision  
Gilpin County Schedule No. **R009702**

The subject property consists of five vacant residential building lots ranging from 0.68 acres to 1.0 acre located in the Wheeler and Mountain Meadows Subdivisions. The terrain is moderately sloping with trees and each of the lots has a buildable site. There is the ability to obtain a well, and utilities are available at the road. The lots are accessible from South Beaver Creek Road, a dirt and gravel county-maintained road located one mile from Highway 119.

Petitioner is requesting an actual value of \$18,000 for each of the subject lots for tax year 2013. Respondent assigned a value of 25,000 for each of the subject lots for tax year 2013.

Petitioner presented three comparable sales ranging in sale price from \$10,000 to \$18,900 and in size from 0.56 to 2.11 acres. No adjustments were made for any differences.

Ms. Wheeler indicated she was the previous owner of Sale 1 (Lot 2A and 39B in Mountain Meadows Subdivision). She combined lots 2A and 39B into one parcel which sold on November 26, 2007 for \$35,000. The lot subsequently sold again on December 8, 2011 for \$18,900. According to Ms. Wheeler, the drop in the sale price is indicative of how market conditions and values have declined in the area. Sale 2 sold on June 22, 2012 for \$18,000 and Sale 3 sold on October 7, 2011 for \$10,000.

Ms. Wheeler contended Respondent has overvalued the subject lots by relying on sales that occurred within the extended 5-year valuation time period. Petitioner pointed out that Respondent's Sale 4 sold in 2012 and was the only sale that sold within the 18-month valuation period (January 1, 2011 to June 30, 2012); Respondent's remaining sales occurred between 2008 and 2010. According to Petitioner, Respondent's Sales 2 through 5 represented higher market values typical during the extended time period. Respondent's Sales 3 through 5 were located outside of the subject subdivision and were considered superior in location. Respondent's Sale 3 had an enhanced septic system in place.

Ms. Wheeler contended that all five of her lots were unimproved and would require substantial costs for obtaining wells, septic systems, electrical services and driveways.

Respondent's witness, Mr. David Kurronen, Licensed Appraiser with Gilpin County Assessor's Office, presented five comparable sales ranging in sale price from \$25,000 to 45,000 and in size from .70 acres to 1.51 acres. After adjustments were made, the sales ranged from \$22,800 to \$33,500.

Mr. Kurronen considered sales within the allowed 5-year extended time period because of the lack of a sufficient number of sales during the regular 18-month period. The sales occurred between September 2009 and June 2012. Sales 1 and 2 were located within the Wheeler Subdivision and Sales 3, 4 and 5 were located in nearby competing subdivisions. All sales were considered similar in size, location and terrain and quantitative adjustments were made for differences in access, well/septic and size. Mr. Kurronen testified he did not make any adjustments for differences in market conditions. Mr. Kurronen correlated to the median range of the adjusted sales for a concluded value of \$25,000 for each of the subject lots.

Mr. Kurronen did not consider Petitioner's sales to be comparable. Mr. Kurronen stated that he spoke with the seller of a lot represented as Petitioner's Sale 1 who indicated to Mr. Kurronen that he wanted a quick sale and reduced the list price considerably. According to Mr. Kurronen, Petitioner's Sale 2 involved a transaction between family members and it was located adjacent to a foreclosure property where debris was left for clean-up. Due to expenses associated with debris removal, the seller wanted a quick sale and reduced the list price. Petitioner's Sale 3 was a 1.5 acre site that sold three times during the valuation time period. Several buyers

considered building on the site however chose not to proceed with the development because the width of the lot is 75 feet allowing only a 14-foot wide structure after the county's setback requirements are satisfied.

Respondent assigned an actual value of \$25,000 to each of the subject parcels for tax year 2013.

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

The Board agrees with Respondent that state statute allows for an extended 5-year data collection period when there is insufficient data available within the 18-month valuation period. See Section 39-1-104 (10.2)(d), C.R.S. Respondent utilized sales within the permissible extended time period and made adjustments for differences affecting the values.

The Board did not agree with Respondent's argument that Petitioner's sales should not be considered in the analysis because they were listed for a quick sale. Respondent indicated they were arms-length sales. Respondent's Sale 5 was a foreclosure sale with no support that it sold at market value.

Therefore, the Board determined that Petitioner's Sales 1 and 2 should be considered in the valuation analysis. Both of the sales were located within the subject's subdivision and best reflected market trends specific to that area. The Board placed minimal weight on Petitioner's Sale 3 because of the lot configuration and necessary code and building requirements; the Board agrees this sale would most likely sell below market value.

The Board placed most weight on Petitioner's Sale 1, which was the property once owned by Petitioner. Petitioner sold it in 2007 for \$35,000 and it was sold again in 2011 for \$18,900. The Board concluded that this sale was the most indicative of market value for the subject. The Board gave secondary weight to Petitioner's Sale 2 that sold for \$18,000, as this sale sold at the end of the valuation period reflecting the most recent market trends. Respondent's Sale 1 with an adjusted value of \$22,800 was also given secondary weight because it was superior in size. Similarly, the Board gave secondary weight to Respondent's Sale 2 as it was reported to have a well and septic system in place, whereas the subject did not have comparable amenities.

The Board concluded that the 2013 actual value of the subject properties should be reduced to \$20,000 per lot.

**ORDER:**

Respondent is ordered to reduce the 2013 actual value of the subject property to \$20,000 for each lot.

The Gilpin 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-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-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, 2013.

**BOARD OF ASSESSMENT APPEALS**

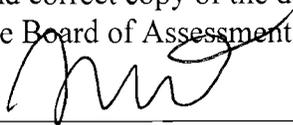


Brooke B. Leer



Debra A. Baumbach

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



Milla Lishchuk

