

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KASPAR KEIL AND LAURA MALDARELLA,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62059</p>
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ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 31, 2013, Diane M. DeVries and Amy J. Williams, presiding. Petitioners, Mr. Kaspar Keil and Ms. Laura Maldarella, appeared pro se. Respondent was represented by Ms. Linda Michow, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**TBD Holmes Gulch Road
Bailey, Colorado
Park County Schedule Number R0012139**

The subject property consists of a 15.0 acre parcel of vacant land located in unincorporated Park County. The property has challenging access and buildability due to mountainous topography. Electric service is available to the adjacent parcel. Petitioners own two other parcels adjacent to the subject parcel; one is located to the south and is 5.0 acres in size, the other is located adjacent to the west and is 40.0 acres in size.

Petitioners are requesting an actual value of \$25,000 for the subject property for tax year 2013. Respondent assigned a value of \$134,750 for the subject property for tax year 2013, however is recommending a reduction to \$77,383.

Petitioner, Kaspar Keil, testified that the majority of the property is extremely steep and rocky. He stated that despite several on-site inspections, the Park County Assessor's Office continues to misidentify and, therefore, mis-value the subject property. Mr. Keil further testified that

while the Park County Assessor's Office rates the subject as a parcel with a "limited" building site, indicating there are multiple building sites that are largely dictated by topography, he would characterize it as "difficult" or unbuildable. Mr. Keil's research reports that extending electricity would cost \$17,000 and that excavating access to county standards would cost between \$29,000 and \$44,000. His knowledge of the property supports only one possible building site, currently cost prohibitive to develop.

On cross examination by Ms. Michow, attorney for Respondent, Mr. Keil confirmed that he and Ms. Maldarella had declined to be valued under the contiguous parcel policy as offered by the Park County Assessor's Office. When asked if electricity was available to the property, he stated that electricity is available having been extended to the adjacent property.

Ms. Maldarella, Petitioner, testified next. Ms. Maldarella reviewed the Park County Assessor land sale comparables, citing several problems with these comparables. Problems identified included failure to recognize or adjust for improvements; failure to recognize or adjust for wells, driveways and septic systems; the use of one sale that was a donation; and the use of sales in the Conifer area. Ms. Maldarella testified that the comparables presented by Petitioner Exhibit 1, pages 63 – 65 were a better representation of the subject property and supported a value of \$25,000.

When cross examined by Respondent, Ms. Maldarella affirmed that Petitioners had not applied dollar adjustments to the comparables, rather subjective adjustments were utilized. She also affirmed that she was aware that Petitioners' Comparable No. 4 did not have legal access. Ms. Maldarella was asked when the three photos on Page 54 of Petitioner's Exhibit 1 were taken, to which she responded July of 2013. Finally, she was asked if she was aware of a 2010 sale via deed of Respondent's Comparable No. 1 for \$160,729, a sale not involving a donation. Ms. Maldarella's response was unclear.

Ms. Michow called Ms. Kristy Gould, Certified General Appraiser, to testify. Ms. Gould testified that she, along with several other employees of the Park County Assessor's Office, had performed several on-site inspections of the subject property, the most recent of which took place on August 8, 2013. She testified that the property is difficult to identify as only one survey stake has been placed. She stated that while exact property boundaries may be in question, she agrees with Petitioners that the property is largely rugged terrain. Ms. Gould, however, disagrees with Petitioners that it is unbuildable and went on to explain the definition and reasoning relative to the "difficult" vs. "limited" categories utilized in the assessor's office for valuation purposes.

Ms. Gould was then asked to testify to her appraisal and comparable selection used to value the subject. She explained land sale comparables one through five, specifically noting that Comparable No. 2 was considered to be a good comparable by Petitioners; Comparable No. 3 did not have a cabin on it as indicated by Petitioners; Comparable No. 4 had a cabin of zero contributory value according to the buyer; Comparable No. 5 had a well that was dry at time of sale.

Under cross examination by Petitioners, she responded in the affirmative relative to viewing some of the comparables, though not all. When asked if she was aware that there was a ten year supply of vacant land, Ms. Gould stated she was not aware of the level of supply. Finally, she was

asked to explain the contiguous parcel valuation policy, to which she cited Section 39-5-104, C.R.S. which allows contiguous parcels under the same ownership to be valued as a single parcel.

Respondent is recommending an actual value of \$77,383 for the subject parcel for tax year 2013, as supported by Respondent's appraisal. This is an adjustment to the value of \$134,750 that was assigned by the Park County Board of Equalization.

Respondent presented sufficient probative evidence and testimony to prove that the value of the subject property should be reduced to \$77,383 for tax year 2013.

After consideration of all of the comparables presented, along with the testimony relative to these comparables, the Board concludes that the preponderance of evidence is supportive of the value being recommended by Respondent, that of \$77,383. The Board recognizes that the subject property is difficult for both parties to accurately identify due to challenging topography. However, the comparables presented by Respondent were most representative of the subject property's characteristics and were similarly located with similar rugged terrain.

On November 14, 2013, the Board received a letter from Petitioners requesting the Board to reopen this matter to allow Petitioners to present additional evidence. Respondent filed a Motion in Response to Petition to Open up Docket No. 62059 on November 25, 2013. The Board considered the parties' filings and exhibits attached thereto.

Pursuant to the Board's Rule 11 (c), the Board may not accept any information not submitted by the Rule 11 (b) due date except as the interests of justice and fairness dictate in the Board's discretion. After reviewing Petitioners' materials, the Board finds that the interests of justice do not require the reopening of this matter. The Board determined that Petitioners had a full and fair opportunity to present their arguments at the October 31, 2013 hearing. Petitioners' statements in the letter of November 14, 2013 largely reiterate the major points of disagreement between the parties. There is no compelling information within this letter that leads the Board to conclude that 1.) omitted evidence or testimony of such magnitude exists as to produce a different outcome, and 2.) that evidence and/or testimony now exists that could not have been presented at the October 31, 2013 hearing.

ORDER:

The Jefferson County Assessor is directed to change the assessment records of the subject property to reflect an actual value of \$77,383 for the subject property for tax year 2013.

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 2nd day of December, 2013.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Amy J. Williams

Amy J. Williams

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

Milla Lishchuk
Milla Lishchuk

