

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DIANA MYERS & TODD MOWER,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62123</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 29, 2013, Gregg Near and Diane M. DeVries presiding. Petitioners, Ms. Diana Myers and Mr. Todd Mower, appeared *pro se*. Respondent was represented by Linda Michow, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**Alma Park Estates, Lot 7, Park County
Park County Schedule No. R0014147**

The subject property is an 8.51 acre parcel of residential vacant land. The South Platte River flows through the property. The property is located .03 miles off State Highway 9. The views are good with some tree cover of aspen and pine. There is access to utilities.

Petitioners are requesting an actual value of \$85,000 for the subject property for tax year 2013. Respondent assigned a value of \$184,077 for the subject property for tax year 2013.

Petitioners' appraiser Mr. Ralph Herzog, a Certified Residential Appraiser, presented a market approach consisting of three comparable sales ranging in sale price from \$70,000 to \$125,000 and in size from 8.5 to 10.9 acres. Mr. Herzog testified that his criteria for selecting comparables were: presence of water, similarity in size, tree coverage and views. The witness stated that availability of water was the most important factor in selecting the comparables. After adjustments were made, the sales ranged from \$70,000 to \$120,000. The only adjustment made was for size.

On cross examination, Mr. Herzog testified that Sale 1 sold per MLS on December 9, 2011. He did not verify whether the MLS sale date was accurate. Respondent stated that the correct sale date for Petitioners' Sale 1 was November 9, 2012, which is outside the base period. Respondent also pointed out on cross examination that the photo in Petitioners' report purporting to represent Sale 3 was not actually a photo of that Sale. Respondent also stated that Petitioners' witness did not make time adjustments to his comparables and did not make adjustments for the type of water on the property, *e.g.* a river vs. a pond vs. a stream, etc.

Ms. Diana Myers testified that a power line crosses the property and a commercial storage facility has been built across the street obstructing some of the view from the subject. Ms. Myers also testified that the anti-theft lights at the commercial storage create "light pollution" on the subject property. Petitioner testified that Respondent did not make adjustments for the power lines or for the obstructed views.

Petitioners requested that their property be valued at \$85,000 for tax year 2013.

Respondent presented a value of \$184,077 for the subject property based on the market approach.

Milena Kassel, Data Collector for the Park County Assessor's Office, presented a market approach consisting of six comparable sales ranging in sale price from \$115,000 to \$435,000 and in size from 5.00 to 9.09 acres. The size of Respondent's Sale 3 was corrected at the hearing from 8.5 to 5 acres. After adjustments for time, size, topography, view, live water and comparability were made, the sales ranged from \$181,935 to \$279,900. Sales 4 and 5 were Summit County sales with large adjustments for location, \$72,540 and \$73,540, respectively. Sale 4 was adjusted \$47,145 for an easement impacting the site. Sales 1, 2 and 3 were adjusted \$52,755 for lack of live water. Another large adjustment to Respondent's sales was for topography; Sale 1 (-\$24,000); Sale 2 (-\$18,400) and Sale 3 (-\$36,000).

Angela R. Kanack, Supervisor of Ms. Kassel and Certified Residential Appraiser for Park County Assessor's Office, testified as to the water adjustment. She stated that Park County has created a new Economic Area Four due to the fact that properties in Park County below Fairplay sell for less, and properties above Fairplay sell for more. The subject property is in Economic Area Four.

Ms. Kanack testified that an adjustment of 27% was made at the County Board of Equalization for water by using paired sales analysis from data derived from Economic Area 1 which is the Bailey area.

Respondent assigned an actual value of \$184,077 to the subject property for tax year 2013.

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. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). The Board finds that Petitioners did not meet that burden.

The Board did not find Petitioners' appraisal report persuasive. The report presented only two usable sales (as the third sale took place outside the base period). The sales were adjusted only for size. There were no time adjustments made. Further, Petitioners' sales were not adjusted for the type of water on the property. The Board notes that the Platte River, with its fishing opportunities, runs through the subject property which adds significant value. The Board also notes that although the subject is not in the more desirable Summit County, it is located in one of the subdivisions nearing Summit County and has a great access to the main highway.

The Board also noted that while Petitioners requested a taxable value of \$85,000 for the subject for 2013, they listed the subject on the market for \$279,900.

The Board observed many deficiencies in Respondent's value analysis. Almost all of Respondent's sales required very large adjustments, suggesting low compatibility to the subject. The Board also found that Respondent's adjustments were unsupported.

In summary, the Board finds that there were numerous deficiencies in evidence presented by both Petitioners and Respondent. Nevertheless, because the burden of proof was on Petitioners to show that Respondent's value was incorrect, and because Petitioners did not meet that burden, the petition is denied.

ORDER:

The petition is denied.

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

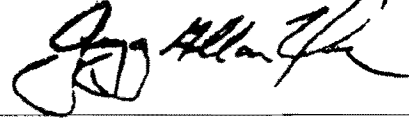
Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

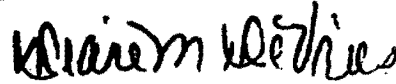
Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of November, 2013.

BOARD OF ASSESSMENT APPEALS

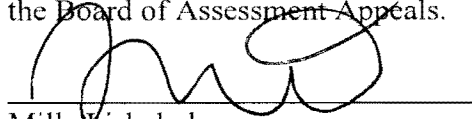


Gregg Near



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

