

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID CARL HARRIS,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62756</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 2, 2014, Gregg Near and Amy J. Williams, presiding. Petitioner, Mr. David Carl Harris, appeared *pro se*. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**TBD Main Street (vacant land)
Byers, Colorado
Arapahoe County Schedule Number 1985-09-2-00-016**

The subject property consists of a 21.52 acre parcel of vacant land located along Main Street within the Town of Byers, Colorado. The parcel is zoned F (Floodplain) and is located across from the Byers water and sanitation treatment plant. There are no improvements located on the property.

Petitioner is requesting a value of \$1,000 for the subject parcel. Respondent assigned a value of \$12,908 for the subject property for tax year 2013. However, Arapahoe County Assessor's Office is recommending the property value be adjusted to \$10,760.

Petitioner, Mr. Harris, called Mr. John V. Winslow, Sr. as his first witness. Mr. Winslow testified that when he made inquiry with the building department he was told that a residence could not be constructed on this property due to the zoning of F (Floodplain). He further testified that the property had been stigmatized by its location next to the town water and sewer treatment plant. This

location, in turn, had promoted trash dumping on the property. Mr. Winslow concluded his testimony by asserting the property was unusable.

Petitioner, Mr. Harris, then testified. Mr. Harris stated that the F (Floodplain) zone district allows agricultural use. He stated irises had been planted on the property at one time, but that trespassers had picked the flowers prior to harvest. He further testified that to plant the property to a traditional, cultivated crop, a number of trees would have to be removed. Additionally, Mr. Harris questioned if plants grown adjacent to a sewage pond would be desirable for consumption. Mr. Harris also discussed trash dumping and significant trespass issues.

Upon cross examination by Respondent's attorney, Mr. Rosenberg, Mr. Harris responded that he did not know if a permit would be issued for an industrial use or if the zoning change was possible for the property. Mr. Harris did report that he had once tried to sell the property for auto salvage use.

Mr. Rosenberg then called a witness for Respondent. Mr. Jesse Bequette, Land Appraiser, Arapahoe County Assessor's Office, to discuss his appraisal. Mr. Bequette indicated he first looked for comparable land sales with the same zoning as the subject. He did not consider the subject to be possible for a residential use. Mr. Bequette referred to the grid on Page 32 of his appraisal report and discussed the various adjustments applied to the sale comparables necessary to arrive at the value conclusion of \$10,760. Finally, Mr. Bequette testified that he had received a call from a neighbor interested in grazing the subject property and he had directed the inquiry to Mr. Harris.

During cross examination, Mr. Bequette stated he had not valued the land as if it were available for an industrial use; he did, however, explore potential uses. When asked why there was not a buildability adjustment, he responded that inability to construct an improvement was inherent in the floodplain zoning.

Respondent assigned an actual value of \$12,908 to the subject property for tax year 2013. This value was assigned by the Jefferson County Board of Equalization. The appraised value supported in Respondent's appraisal, Respondent's Exhibit A, and being requested by Respondent, is \$10,760.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). The Board concurs with Petitioner that the subject 21.52 acres of vacant land has limited utility. However, Petitioner did not provide sales data to support a lower value, nor did evidence or testimony presented by Petitioner persuade the Board that Respondent's value was in error. Further, Mr. Bequette's testimony and appraisal report were found to be credible support of Respondent's requested value.

ORDER:

The Arapahoe County Assessor is directed to change the assessment records of the subject property to reflect the value requested by Respondent, that of \$10,760.

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 10th day of June, 2014.

BOARD OF ASSESSMENT APPEALS



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

Milla Lishchuk

Gregg Near

Gregg Near

Amy J. Williams

Amy J. Williams