BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 64747
Petitioner: **WILLIAM AND LESLIE FIJOLEK,** v. Respondent: **SAN MIGUEL COUNTY BOARD OF COMMISSIONERS.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on November 21, 2014, Gregg Near and MaryKay Kelley presiding. Raymond Bowers, Agent, appeared pro se on behalf of Petitioners. Respondent was represented by Stephen Zwick, Esq. Petitioners are protesting the 2011 and 2012 actual values of the subject property.

Docket Numbers 64746, 64747, 64748, 64749, 64750, 64751 and 64752 were consolidated for purposes of the hearing.

Subject property is described as follows:

Lot 19, Block 3, Filing 2, Telluride Ski Ranches
San Miguel County Schedule No. R1030006980

The subject is a vacant 2.19 acre site located within Telluride Ski Ranches, a residential subdivision near Telluride and the Telluride Ski Area. Terrain is fairly level to sloping and forested with southern views.

Respondent assigned a value of $570,000 for each tax years 2011 and 2012 but is recommending a reduction to $450,000. Petitioners are requesting a value of $268,000 for each tax year.

Petitioners' agent, Raymond Bowers, Broker Associate (GRI and MRE designations, among others), discussed the 2007/2008 economic crisis and depressed real estate market affecting the

subject neighborhood throughout the 2009/2010 base period. He presented the following data to support his contention that real estate values plummeted. Three to four vacant sites in the subject subdivision sold each year from 2004 through 2008, but there were no sales in 2009 and only one sale in 2010 (his Sale One). The number of home sales in the subdivision dropped from 10-12 a year to 4 during the 2009/2010 base period. Lot 155 in Aldasoro (his Sale Two) sold in 2006 for $1,050,000 and in 2010 for $575,000, a 45% drop. The number of land sales in the eastern end of the county fell from 76 in 2007/2008 to 22 in 2009/2010. Despite estimating that land values declined from 40% to 60% in the 2009/2010 base period, Mr. Bowers declined to make negative time adjustments in his analysis.

Mr. Bowers described the subject's level building envelope and otherwise level (50% of the total) to sloping terrain with a considerable drop-off. He rated views as "medium" based on a four-point scale (poor, medium, very good and excellent) and privacy as "very good" due to its situation at the end of its road. The driveway was described as steep, then level.

Mr. Bowers presented an analysis of three vacant sites, Sale One located within Telluride Ski Ranches (Lot 10) and the other two in competing subdivisions. The three ranged in sale price from $210,000 to $575,000 and in size from 0.6 to 1.6 acre. After adjustments for size ($30,000 per acre), views ($20,000 per gradient), privacy (10% of land value), proximity to open space ($5,000), topography (based on terrain and foundation expense), and driveway access (length and terrain), his adjusted values ranged from $268,000 to $300,500. While acknowledging that Sale Two was a short sale, he argued that distress sales were prevalent in the marketplace, impacted the market, and should not be dismissed from consideration. He concluded to an average adjusted sale price of $277,167 and a median of $283,000.

Mr. Bowers also presented an analysis of three improved sites, all located within the subject subdivision, and applied an extraction method for their improvements. He made adjustments (size, view, privacy, proximity to open space, and topography) to mass-appraised values and subtracted the estimated replacement cost for each home, concluding to average and median values of $203,383 and $199,750, respectively.

Mr. Bowers considered the only sale of the vacant site within the subject subdivision (Sale One) to be the best indicator of value and concluded to $268,000.

Respondent's witness, Jeff J. Marsoun, Certified Residential Appraiser, agreed with Mr. Bowers' description of all features. He rated both view and privacy as "very good" on a five-point scale (poor, fair, average, good, very good and excellent).

Respondent presented a value of $450,000 for the subject property based on the Market Approach. Mr. Marsoun presented three comparable sales ranging in sale price from $210,000 to $775,000 and in size from 0.1917 to 2.77 acres. After adjustments were made for location/size (2.5% for every $1/10^{th}$ of an acre), view (5% per increment based on poor, fair, average, good, very good and excellent increments), topography (10% per increment), and privacy (5% per increment), the sales ranged from $330,750 to $581,250. Mr. Marsoun's Sale Three is the same property as Petitioner's Sale One (Lot 10 in Telluride Ski Ranches) with an adjusted value of $399,000. The

other two sales were located in competing subdivisions. Mr. Marsoun averaged the three adjusted values at $450,000.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2011 and 2012.

The Board finds the subject's mountain views to be "average". Trees obstruct some of the view and cannot be cleared. The site is located at the end of the road, which offers privacy. The driveway is "easy". Topography is typical, sloping with a drop-off at the top.

While the Board finds that Petitioners met their burden, the consolidation process required evaluation of seven properties and the intricacies of terrain, topography, view, potential road length and alignment, tree cover, and privacy. This process was cumbersome due to the detail for each subject property and comparable sales. The Board has attempted to value each property fairly.

The Board finds Petitioners' adjustment methodology for size (the parcel treated as a whole and adjusted at $30,000 per acre) more convincing than Respondent's argument (primary value is in the building site with surplus land contributing at a lesser rate or 2.5% of the sale price for every $1/10^{th}$ of an acre). The Board has greater confidence in Petitioners' adjustment methodology for other factors: view, subdivision, privacy (proximity to roads, proximity to open space), and topography (includes driveway expense). While Respondent's witness has knowledge of the area, Mr. Bowers portrays an intimate knowledge of each lot's strengths and weaknesses and offers decades of experience with buyers and sellers. Respondent's adjustments are based on mass-appraised "historical sales data", which is given less weight than Mr. Bowers' obvious knowledge of the subdivision and individual lots.

The Board is not convinced that distance to open space or park is recognized in the market place. All sites in Telluride Ski Ranches are forested and offer outdoor enjoyment throughout the year. While open space and parks may offer additional terrain, driving time is short from any point in the subdivision. Respondent's witness made no adjustment for this feature, and the Board is not persuaded that Petitioners' adjustment is warranted.

The Board is convinced by Petitioners' witness that Aldasoro Ranch is an overall superior subdivision and that a $300,000 adjustment in comparison to Telluride Ski Ranches is warranted. While the parties have different opinions about the Adams Ranch subdivision, neither made an adjustment, and the Board heard insufficient arguments to apply one.

The following graph displays the subject property and adjustments to all comparable sales.

	Subject	Lot 10	Pet's 2	Pet's 3	Resp's 1	Resp's 2
Acreage	2.19	1/28	1.6	0.6	2.77	0.19
View	Avg	Poor	V Good	Avg	Excell	Good
Driveway	Easy	Easy	Easy	Easy	Unkwn.	Unkwn.
Topo	Lev-Slope	Lvl-Slope	Lvl-Slope	Lvl-Slope	Avg	Avg
Privacy	Good	Avg	Good	V Good	Avg	Avg (-)
Adj.		$247,000	$203,000	$283,000	$207,625	$412,393

The Board finds the shared sale of Lot 10 to be most similar to the subject site, primarily due to location within the same subdivision. The Board's recalculated values range from $203,000 to $412,393, bracketing Lot 10's adjusted sale price. Also, Petitioners' discussion about value decline in the area is convincing, and the Lot 10 sale falls toward the lower end of the adjusted value range.

The Board does not find Petitioners' extraction methodology convincing or appropriate per acceptable appraisal practice. Application of adjustments should be made to sale prices, not actual values. Petitioners' estimation of replacement cost should have included physical depreciation.

The Board finds that Petitioners' requested value of $268,000 is supported by the Board's recalculations and concludes that the 2011 and 2012 actual values of the subject property should be reduced.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners based on 2011 and 2012 actual values for the subject property of $268,000.

The San Miguel County Assessor is directed to change his/her 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 30th day of December, 2014.

BOARD OF ASSESSMENT APPEALS

Gregg Near

MaryKay Kelley

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

Milla Lishchuk

64747