

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 65584

Petitioner:

RENEE S. WISEMAN,

v.

Respondent:

**GUNNISON COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 11, 2015, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner's husband, Mr. Todd Wiseman, appeared *pro se* on behalf of Petitioner. Respondent was represented by David Baumgarten, Esq. Petitioner is protesting the 2012 actual value of the subject property.

Subject property is described as follows:

**31 Ruby Drive
Lot 30 Chalet Village Addition 11, Mt. Crested Butte
Gunnison County Schedule No. R005396**

The subject property consists of a vacant lot located within a residential subdivision. The lot is 0.469 acres in size, offers mature evergreen and aspen trees, and a sloping meadow of native grasses. A natural drainage is located along the east edge of the lot. Petitioner purchased the subject in December of 2012 for \$32,000.

Petitioner is requesting an actual value of \$32,000 for the subject property for tax year 2012. Respondent assigned a value of \$208,200 for the subject property for tax year 2012.

Mr. Wiseman, witness for Petitioner, presented a market approach consisting of four comparable sales that occurred within the base period that ranged in sale price from \$95,000 to \$178,000 and in size from 0.394 to 0.69 acres. Although the witness made no specific adjustments to the comparable sales, he provided a qualitative analysis in his testimony.

Petitioner's sale identified as 2-J is a site adjacent to the subject that sold in February of 2010 for \$178,000. Mr. Wiseman testified that 2-J was larger than the subject containing 0.67 acres (compared to the subject's 0.469 acres), had superior topography and, unlike the subject, had no wetland area. The remaining three sales (identified as 2-K, 2-L, and 2-M) were not located in the same neighborhood as the subject, but did offer golf course locations, views, and level topography. Additional sales brought forward by Petitioner were not admitted into evidence as they took place outside the base period. Petitioner also presented a copy of the Board of Assessment Appeal's decision concerning Petitioner's appeal of the 2013 valuation of the subject property in which the Board reduced the subject's 2013 value to \$113,800.

In deriving the 2012 value of \$32,000 for the subject, Petitioner placed the greatest weight on the actual purchase of the subject in late 2012 for \$32,000.

Respondent presented a value of \$215,000 for the subject property based on the market approach.

Respondent's witness, Ms. Kristy McFarland, Certified Residential Appraiser with the Gunnison County Assessor's Office, presented three comparable sales ranging in sale price from \$407,500 to \$450,000 and in size from 0.269 to 0.577 acres. The sales transacted between November 2005 and November 2006, within an extended base period. Respondent indicated that from July 2005 to June 2008, the "market was stable and flat." (See Respondent's Exhibit B, page 10). Ms. McFarland made an adjustment to the comparable sales for market conditions at a rate of 1.75% per month, for the months between July 2008 and June 2010, which resulted in a downward adjustment of 42% for each of the sales. Sales were then adjusted for terrain and cul-de-sac location, as required. After adjustments were made, the sales indicated a range in values from \$201,350 to \$217,200. Respondent's Sale 1, with an adjusted price of \$217,200, was given the greatest weight in concluding to a value of \$215,000 for the subject.

Ms. McFarland reported that Petitioner's Sale 2-J was not adjacent to the subject. She did not give any consideration to this sale because, in her opinion, it required an adjustment for site attributes.

Respondent assigned an actual value of \$208,200 to the subject property for tax year 2012.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2012.

The Board acknowledges that due to the depressed nature of the market during the base period, there was only a limited number of sales available to rely on in the valuation of the subject. In selecting comparables, Respondent limited its sales to those located closely to the subject in Mt. Crested Butte area. However, Respondent's transactions occurred between 2005 and 2006, a period when the property values reached record highs. Petitioner presented convincing evidence that there were, in fact, sales of sites offering some similarities to the subject that occurred within the base period near the date of value.

The most convincing evidence presented on the record involved Petitioner's sale 2-J. That property had previously sold in April of 2006 (within the extended base period) for \$425,000. A comparison with the February of 2010 sale of this property for \$178,000 indicates a reduction in value of over 58%, not the 42% reflected in Respondent's adjustment for market conditions. The subject sold within the extended time frame, at a purchase price of \$375,000 recorded on July 1, 2005. The subject's July, 2005 value adjusted downward by 58% for market conditions indicates a value of \$157,500.

The Board, however, does not place total reliance on a single sale (2-J). Moreover, the Board notes that Respondent's 42% adjustment factor was derived from a broader geographic area. With adjustments of 42% (indicated in Respondent's methodology) to 58% (indicated by the Board's analysis of Petitioner's data), an adjustment for market conditions of 50% can reasonably be derived from the information presented by both parties. Adjusting the 2005 sale of the subject (subject sold for \$375,000) by 50% results in a value of \$187,500. Making the same 50% adjustment to Respondent's sales and Petitioner's sale 2-J, results in an indicated range of \$173,200 to \$212,500 with an average of \$188,000, supportive of the value of \$187,500 concluded by the Board.

The Board was not moved by Petitioner's presentation of a prior Board's decision pertaining to the subject's 2013 value because each case before the Board is approached on a *de novo* basis. D.C. Burns Realty v. Jefferson County, 849 P.2d 900 (Colo. App. 1992). Moreover, the Board can give no weight to Petitioner's purchase of the subject in December 2012, as that sale occurred after the conclusion of the applicable statutory base period. See Padre Resort, Inc. v. Jefferson County BOE, 30 P.3d 813 (Colo. App. 2001). Petitioner's remaining sales were not persuasive, as they were in inferior locations with no adjustments made.

The Board concluded that the 2012 actual value of the subject property should be reduced to \$187,500.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2012 actual value for the subject property of \$187,500.

The Gunnison 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 10th day of September, 2015.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Sondra W. Mercier

Sondra W. Mercier

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

Milla Lishchuk

Milla Lishchuk

