

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARK M. & AERICHA P. BURROUGHS,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65849</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 8, 2015, Debra A. Baumbach and Gregg Near presiding. Petitioner, Mr. Mark M. Burroughs, appeared *pro se* on behalf of Petitioners. Respondent was represented by Alan N. Hassler, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**1115 County Road 134/Craven Road
Grand County, Colorado 80459
Grand County Schedule No. R001560**

The subject property consists of approximately 15 acres of vacant land otherwise known as Lot 21 Gore Lakes Unit 2. It is heavily treed, with aspen, pine and spruce. The lot has extreme topography in areas, but it does have a good driveway and a flat buildable space. There is water that runs through the property. The property has limited views and is very secluded.

Petitioners are requesting an actual value of \$50,000 for the subject property for tax year 2015. Respondent assigned a value of \$63,990 for the subject property for tax year 2015.

Petitioner, Mr. Burroughs, noted that there are two significant deficiencies to his property that are not properly considered in the Assessor's valuation. In the first instance, the property is located on a non-maintained County Road 134. In the second instance, County Road 134 fails to follow its planned right of way, so that Petitioners cannot access their lot by car or on foot without having to cross private property.

Mr. Burroughs detailed the estimated annual expenses of \$6,400 to maintain access to his property. This provides a minimally drivable surface and includes wear and tear on his personal equipment as well as maintenance of several culverts that Petitioner indicated are improperly constructed.

Mr. Burroughs then provided several exhibits showing the location of his lot on the original subdivision plat; the gap between the existing road and his lot as shown on the Grand County Parcel Viewer. Petitioner testified to having found his property pins and they are not sufficiently close to the road to meet surveying standards. Mr. Burroughs indicated the neighboring property owner has been informed of this problem and that owner is not particularly concerned but there is no guarantee that circumstance would continue should the adjacent property be sold. Petitioner estimates his cost to correct this deficiency in access to be \$8,000.

Mr. Burroughs pointed out that his lot has a steep driveway and has limited utility due to large rock outcroppings.

Petitioner presented no comparable sales but noted disparities in the Assessor's valuation of his lot and the valuations of neighboring lot 20 and lots 22/23.

Petitioner is requesting a 2015 actual value of \$50,000 for the subject property.

Respondent presented a value of \$63,990 for the subject property based on the market approach.

Respondent's witness, Ms. Rebecca D. Allison, a Certified Residential Appraiser, presented six comparable sales ranging in sale price from \$35,000 to \$90,000 and in size from 4.03 to 10.66 acres. After adjustments were made, the sales ranged from \$73,600 to \$120,200.

The witness described the subject access as "dirt road" with limited views and "severe" topography. Ms. Allison applied adjustments of either \$5,000 or \$10,000 to the comparable sales. Sales 1, 3, 5 and 6 were adjusted downward \$5,000 each for good views. Sales 1, 4, 5 and 6 were adjusted downward for moderately sloping terrain and Sale 2 was adjusted downward \$10,000 for flat terrain. Sales 1 and 3 were most similar to the subject and supported a value of \$95,000. The witness concluded to the value previously assigned to the property of \$63,990.

Respondent assigned an actual value of \$63,990 to the subject property for tax year 2015.

Petitioners contend Respondent's comparable sales are inadequate as only two are within the subject neighborhood. Sale 1 is on a "secondary road" that receives limited county maintenance and is also quite close to State Highway 134. Sale 2 is also located on a secondary road and is both closer to the highway than the subject and much more usable. The properties referenced by Respondent that are located in the Gorewood subdivision (Sales 3-6) are invalid because this location is 17 miles from the subject neighborhood.

Respondent agreed, in testimony, that Sale 2 is actually located on a non-maintained County road but considered the subject's access to be reasonably similar to the other sales with no adjustment needed. Respondent contends Petitioners had presented no survey to support their contention of no access and the evidence presented by Petitioners in support of this argument is not sufficiently reliable. Grand County Parcel Viewer maps are generated by satellite and are not surveys. Damages claimed by the lack of County maintenance to Road 134/Craven Road are speculative and only represent Petitioners' suppositions.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

After careful consideration of the testimony and exhibits presented, the Board determined the primary issues to be: first, the presence of, or lack of, county road maintenance and the influence this factor has upon value; the second issue involves the methodology applied within Respondent's site-specific appraisal.

The Board was convinced by Petitioners' argument regarding the lack of county road maintenance. In that regard, the Board turned to Respondent's Sales Comparable Grid (Exhibit A, page 21). Respondent's witness testified that Sale 2 is located, like the subject, on a non-county maintained road. Respondent's Sales 1 and 2 are the only sales reported that took place within the subject subdivision. Sale 1, a larger lot, has a better view and is sloping in topography. Applying the adjustments utilized by Respondent's witness provides sufficient evidence that Sale 2 commanded a lower price because it is located on a non-county maintained road.

The Board has no confidence in the site-specific appraisal provided by Respondent. Inexplicably, Respondent's witness chose to develop a unit of value based upon a price per acre. Typically, vacant land of the sort under consideration here is sold for its value as a building lot. Buyers and sellers in this market consider the individual merits of each property based upon suitability for their proposed use. The amount of area purchased is one of many factors, as is clearly represented by the Sale Comparable Grid, but the Board cannot agree that a purchaser's primary focus is on lot size. Presenting an analysis that does not represent the actions of market participants is misleading. The error is compounded by failing to recognize the basic appraisal principal of diminishing returns.

The Board has chosen to focus on Respondent's Sale 1 and Sale 2. Sales 3 through 6, from the Gorewood subdivision, are less reliable as they are all superior to the Gore Lakes subdivision. The Gorewood sales are all similar in size suggesting greater compatibility within the development. Further, these sales exhibit a narrow value range averaging \$77,200, 40% greater than the highest sale reported in Gore Lakes.

Sale 1 is most similar to the subject in size but has a better view and Sale 2 is most similar in access but has flat topography. Respondent's adjustment of \$5,000 for view, supported by the witness's testimony, is applied to Sale 1 for an adjusted indication of \$50,000. In regard to topography, the Board reviewed Sales 3 through 6 and found no consistent market reactions for terrain (note that Sale 4, with "severe" slope, commanded the highest price of all the transactions). No adjustment was therefore applied for topography.

After the above adjustment process, the two sales within the Gore Lakes subdivision range from \$35,000 to \$50,000 and differ only in access and size. The factors tend to balance one another but, in relation to the subject property's greater size (15.02 acres to an average 6.6 acres for Sale 1 and 2) the Board considered the upper range to be best supported. On this basis the Board has adopted a value opinion of \$50,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$50,000.

The Grand County Assessor is directed to change their 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 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).

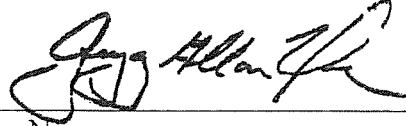
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 31st day of December, 2015.

BOARD OF ASSESSMENT APPEALS

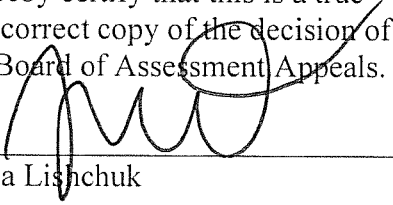


Gregg Near



Debra A. Baumbach

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



Milla Lishchuk

