

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

Docket No.: 68213

Petitioner:

STANDARD PACIFIC OF COLORADO INC.,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 25, 2016, James R. Meurer and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2015 property tax valuation of the subject residential lots.

The parties agreed to the admission of Petitioner's Exhibits 1 and 2, to Respondent's Exhibits A through O and the qualifications of the witnesses.

Subject property is described as follows:

**141 Lots in the Parker Homestead Subdivision
Parker, Colorado
Douglas County Account Nos. R0481339 + 140**

The subject property consists of 141 residential building lots as follows:

- 17 developed single family residential lots in Filing 2A
- 4 developed single family residential lots in Filing 2C
- 62 developed single family residential lots in Filing 3A
- 58 partially developed single family residential lots in Filing 3B

All the lots are located in the Parker Homestead Subdivision. The lots range in size from 0.149 acres to 0.223 acres with an average size ranging from 6,478 square feet in Filing 2A to 9,703

square feet in Filing 2C. The parties are in agreement that the partially developed lots are approximately 25% finished. Twenty five of the developed lots back to open space.

Petitioner is requesting an actual value of \$4,484,153 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of \$8,661,394 for tax year 2015 which supports the assigned value for tax year 2015 of \$8,225,634.

Petitioner presented the following indicators of value:

Cost:	Not Developed
Market	\$4,484,153
Income:	Not Developed

Petitioner's witness, Mr. Todd Stevens of Stevens & Associates Inc., presented eight comparable vacant lot sales ranging in sale price from \$40,000 to \$136,900 and in size from 6,970 to 42,253 square feet. The witness applied this set of comparable sales in his analysis of the 17 developed single family residential lots in Filing 2A with an average lot size of 6,478 square feet. After adjustments were made, the sales ranged from \$32,000 to \$75,295 and Mr. Stevens concluded to a price per lot of \$47,000 with one lot adjusted upward 15% to \$54,050 for an open space location.

A similar approach was applied to the four developed lots in Filing 2C and the sixty two developed lots in Filing 3A resulting in a \$52,000 price per lot. The two open space lots in Filing 2C and twenty two lots in Filing 3A were adjusted upward 15% to \$59,800 for open space locations.

Filing 3A, having had no sales during the base period, was projected to have a 5-year sellout period. Based on present worth analysis, the developed lots were valued at \$35,704 and the open space lots at \$41,060.

Using the same eight sales, the prospectively developed lots in Filing 3B were valued at \$47,000. No analysis was made of open space locations in this filing. As the lots were only 25% finished, Mr. Stevens adjusted the finished value to \$28,200. Based on present worth analysis, the partially developed lots were valued at \$19,363 each, or, \$2.88 per square foot.

The witness concluded to a final value estimate of \$4,484,153.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market	\$8,661,394
Income:	Not Developed

Respondent's witness, Ms. Virginia K. Wood, a Certified Residential Appraiser, presented a market approach consisting of eleven transactions of finished and platted lots considered similar in size, views and setting to the subject lots. Ms. Wood indicated there had been no retail sales of

individual lots in the immediate area of the subject within the last several years. The market consists primarily of new developments with lots being purchased in bulk by home builders.

The witness noted the multi-parcel transactions reported were from two subdivisions within two to eight miles from the subject. The first six sales reported were all bank owned lots sold from Citywide Banks to Richmond Homes from March 2013 to June 2014. The lots sold in groups from five to twenty four at prices from \$68,800 to \$80,000 per lot. The remaining sales were sold from a developer to Meritage Homes. These transactions occurred from January 2013 to April 2014. The lots sold in groups from twelve to sixteen at prices from \$83,350 to \$86,567 per lot. Ms. Wood placed greatest weight on the last two groups of sales to Meritage Homes as being the most current transactions not influenced by bank ownership and concluded to a base value of \$85,000 per lot. Greenbelt locations were adjusted upward by 15%, resulting in a total value of \$97,750.

Present worth discounting was considered for Filings 2A and 2C. The subdivision filings were found to have sufficiently robust sales that the absorption period was less than one year making the filings ineligible for a present worth discount. Filings 3A and 3B, based upon the sales rate for Filings 2A and 2C were anticipated to have an absorption period of 1.44 years for the remaining 120 finished lots. The absorption period was rounded up to two years and was discounted at 14%.

Filing 3A had fully finished infrastructure as of the valuation date. The witness applied the above discount rate to conclude to a base value of \$69,983 for interior lots and \$80,480 for greenbelt lots.

In analyzing Filing 3B, Ms. Wood, after concluding to the same base value of \$85,000, reduced the anticipated infrastructure costs of \$50,000 by 75% to determine a value of \$47,500. Present worth discounting, applied as above, resulted in a current value of \$39,108 per lot.

The witness concluded to a final value estimate of \$8,661,394

Based upon the testimony and evidence presented, there is agreement between the parties as to the percentage of completion for the unfinished lots, the number and location of open space lots and to the premium applied to the superior locations.

A comparison of the concluded lot values by the parties is as follows:

	Petitioner	Respondent
Flg. 2A Base Lot Retail	\$47,000	\$85,000
Flg. 2A Open Space Lot Retail	\$54,050	\$97,750
Flg. 2C Base Lot Retail	\$52,000	\$85,000
Flg. 2C Open Space Lot Retail	\$59,800	\$97,750
Flg. 3A Base Lot Retail	\$52,000	\$85,000
Flg. 3A Open Space Lot Retail	\$59,800	\$97,750
Flg. 3A Base Lot Discounted	\$35,704	\$69,983
Flg. 3A Open Space Lot Discounted	\$41,060	\$80,480
Flg. 3B Base Lot Retail	\$47,000	\$85,000

Flg. 3B Base Lot with Partial Finish	\$28,200	\$47,500
Flg. 3B Base Lot with Partial Finish Discounted	\$19,363	\$39,108

Petitioner contends Respondent’s use of bulk sales is inappropriate and that the sales represent prices determined in 2009 and 2012, outside of the statutory base period. According to Petitioner, Respondent’s approach is also flawed as Respondent’s witness did not make adjustments to the sales. Petitioner also maintains that Respondent’s appraiser applied too aggressive a sell-out period and chose sales at the upper end of the range. According to Petitioner, Respondent’s appraiser improperly chose to adjust the lots included within the bulk sales for an open space premium when any premium would have already been factored into the price paid.

Respondent contends that bulk sales represent the market in the county and are therefore appropriate. Respondent also asserts that the lot sales used by Petitioner’s witness are not comparable and the adjustments made to the sales are unsupported by any data. Respondent notes that all of Petitioner’s comparable sales are from inferior locations further south from the subject. Respondent also disputes the comparable sales used for a number of other reasons including different neighborhoods; use of in-fill lots in older, developed, subdivisions; larger lot sizes; adjustment for steep terrain; use of distress sales and sales located with exposure to traffic.

To the Board the significant issues appear to be the obvious difference in value conclusions represented by the chart above; the appropriate comparable sales to be considered and development of an appropriate estimate of the sell-out period for the recently finished and partially finished lots in filings 3A and 3B.

To begin, the Board finds agreement with Respondent in regard to the sell-out period and the use of bulk sales in the market approach. In the first instance, Respondent’s estimate of the sell-out period was based upon analysis of sales of lots of similar size, features and location whereas Petitioner’s witness gave no explanation for what appears to be an overly pessimistic view of this market.

Regarding the appropriate comparable sales, the Board first considered the individual lot sales provided by Petitioner’s witness and found them to be generally unpersuasive. Sale 4 and Sale 7 were short sales, Sales 2, 6 and 7 were all from the same golf course community with lot sizes averaging from three to five times those of the subject. Sale 3, the most proximate of the comparable sales and very similar in size, was considered superior in “lot characteristics” despite a high tension power line and easement to the rear of the site. The Board also agrees with Respondent that Petitioner’s witness largely ignored significant property differences and applied wide ranging adjustments lacking any support.

Respondent’s sales were uncontested as representing lot take downs. Adjustment for time (market conditions) was not applied under the justification that escalation clauses are common in development contracts. Respondent presented eleven multiple parcel subdivision sales that occurred in the county from January 2013 to June 2014. Sales 1 through 6 were from Horseshoe Ridge. Sales 7 through 11 were from Rocking Horse 1 and Rocking Horse 2. Sales 1 through 6 were owned by Citywide Banks and various numbers of lots transferred for \$80,000 each with the exception of five

lots sold in September 2013 for \$68,800. Sales 7 through 11 were owned by Rocking Horse Partners, LLC and transferred in groups of twelve at prices from \$81,500 in January 2013 to \$86,567 in April 2014. The lot prices for this group of sales grew progressively higher over time.

Respondent's witness gave the least weight to the bank owned sales. The Board also considered the information provided in Exhibits J-1 and J-2, labeled as examples of multiple parcel sales within the study period. Exhibit J-1 contains three transactions; No. 2013008766, No. 2013039961 and No. 2013064413. The three transactions, consisting of twelve, five and seven lots respectively, transferred during the study period from Rocking Horse Partners to Lennar Colorado for lot prices ranging from \$63,500 to \$65,086. The exhibit also included eight bulk lot transactions ranging from 102 to 219 lots. While the state of development for these transactions was not presented, the range of lot prices paid was from \$24,375 to \$82,500 per lot with an average of \$44,037 per lot for the 1,164 lots represented within the eight bulk transactions.

In the subject case, Petitioner's sales were not persuasive and Respondent has reported eight bulk lot transactions and referenced two pages of similar type sales. The weight of the evidence suggests the use of the bulk transactions is appropriate.

The Board finds Respondent's use of bulk transactions and a 2-year present worth discount to be appropriate. Petitioner raised significant issues with the value conclusion that require the Board's consideration.

When questioned by the Board regarding the competitive position of the subject developer, Respondent's witness indicated their product was "average" for the area. The Board must therefore consider any of the above sales within Rocking Horse to Lennar as directly competitive with the sales used by Respondent. Lennar paid an average of \$64,293 per lot for the takedowns illustrated on Exhibit J-1 whereas Meritage paid an average of \$84,034. The Board finds some merit in Petitioner's claim that Respondent's witness has chosen to conclude to values at the upper end of the range. Noting again the sales that the Board considered within Exhibit J-1 and J-2, only one transaction, No.2013091680 a sale of 102 lots to Richmond Homes for an average price of \$82,500, supports Respondent's value conclusion. Because only the sales to both Lennar and Richmond Homes within the same subdivision are competitive, the mid-range of the average price paid by these buyers during the study period is adopted as appropriate. The Board has calculated that figure to be \$74,163 per finished lot.

The Board also finds agreement with Petitioner that a bulk transaction includes lots with both positive and negative attributes and that Respondent's adjustment of the bulk transactions for open space lots was inappropriate.

Both parties agreed that the lots in Filing 3B had only 25% of the infrastructure in place as of the 2015 tax year valuation date. Mr. Stevens, in his analysis of Filing 3B, determined a retail value for these lots of \$47,000 and a value of \$28,200 considering the infrastructure to be incomplete. The Board was unable to determine how Mr. Stevens reached a value conclusion of \$28,200 for the lots with 25% infrastructure. The Board turned to Respondent's Exhibit D-1 that provided support for adaptation of an average infrastructure development cost of \$50,000. A deduction of \$37,500 (75%)

was derived. The Board has therefore adopted a deduction of \$37,500 to the retail value of \$74,163 concluded above, deriving a value of \$36,663 for the partially-developed lots in Filing 2B.

A summary of the concluded lot values is as follows:

Flg. 2A Base Lot Retail	\$74,163
Flg. 2A Open Space Lot Retail	\$85,287
Flg. 2C Base Lot Retail	\$74,163
Flg. 2C Open Space Lot Retail	\$85,287
Flg. 3A Base Lot Retail	\$74,163
Flg. 3A Open Space Lot Retail	\$85,287
Flg. 3A Base Lot Discounted @ 14% for 2 years	\$58,936
Flg. 3B Open Space Lot Discounted	\$65,626
Flg. 3B Base Lot Retail	\$74,163
Flg. 3B Base Lot with Partial Finish	\$36,663
Flg. 3B Base Lot with Partial Finish Discounted	\$28,211

The indicated retail market value for the subject lots as determined above is illustrated as follows:

Filing	Value	Lots	Subtotal
Flg. 2A Base Lots	\$74,163	16	\$1,186,608
Flg. 2A Open Space Lot Retail	\$85,287	1	\$85,287
Flg. 2C Base Lot Retail	\$74,163	2	\$148,326
Flg. 2C Open Space Lot Retail	\$85,287	2	\$170,574
Flg. 3A Base Lot Discounted @ 14% for 2 years	\$58,936	40	\$2,357,440
Flg. 3A Open Space Lot Discounted	\$65,626	22	\$1,443,772
Flg. 3B Base Lot with Partial Finish Discounted	\$28,211	58	\$1,636,238
Total Indicated Value of the Subject Lots:			\$7,028,245

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

The Board concluded that the 2015 actual value of the subject property should be reduced to \$7,028,245.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$7,028,245.

The Douglas 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-nine days after the date of the service of the final order entered).

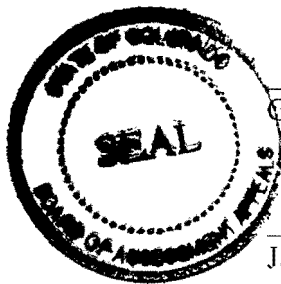
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 17th day of August, 2016.

BOARD OF ASSESSMENT APPEALS



Gregg Near

Gregg Near

James R. Meurer

James R. Meurer

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

Milla Lishchuk

Milla Lishchuk