

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 70852

Petitioner:

ROBERT J TAYLOR AND THERESA M KATEIN,

v.

Respondent:

PARK COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 26, 2017, Diane M. DeVries and Gregg Near presiding. Mr. Robert J. Taylor appeared pro se on behalf of Petitioners. Respondent was represented by Marcus McAskin, Esq. and Christiana McCormick, Esq. Petitioners are protesting the 2017 actual value of the subject property.

The parties stipulated to the admission of Petitioners' Exhibits 1-13 and Respondents' Exhibits A-L.

The subject property is described as follows:

**680 San Juan Street
Lake George, CO 80827
Park County Schedule No. 22633**

The subject property is a 2,326 square foot raised ranch home with a 671 square foot basement per Petitioners. 24 square feet of the main level and 647 square feet of the basement are reported to be unfinished. The home was constructed in 2014 and contains three bedrooms and three baths. Exterior improvements include a 2,400 square foot metal garage and an 896 square foot pole barn. The property is located a few miles from the town of Hartsel, Colorado and contains 35.29 acres. Two acres are classified as residential and the remainder is classified as agricultural. There is fencing to enclose three acres surrounding the residence and outbuildings. The land borders State of Colorado property with 360-degree mountain views. The land has no tree coverage and there are no public utilities in this area.

The overall construction quality and condition is rated “average” by Respondent. No interior inspection of the property was allowed by Petitioners.

Petitioners are requesting an actual value of \$357,344 for the subject property for tax year 2017. Respondent provided an appraisal reflecting a value of \$371,493 representing a slight reduction from the assigned value of \$372,855.

Petitioners’ witness, Mr. Taylor, did not develop a sales comparison approach for the subject property. Mr. Taylor presented an equalization argument based on an analysis of the Assessor’s value opinions before and after Petitioners’ initial appeal to the County. The analysis resulted in a range of values from \$84.08 to \$88.31 per square foot of the residential improvements (total value minus land value). The witness then compared these values to four other assessments in the County and analyzed them in the same manner to determine a range of \$38.75 to \$54.23 per square foot. On the basis of this analysis Mr. Taylor concluded the County’s valuation process was not consistently applied.

Further, Petitioners presented 17 properties derived from the Assessor’s records with sale dates from August 23, 2012 to February 19, 2016. The sales indicated a range of values from \$142,900 to \$295,000. Three highlighted transactions were not served by public utilities indicating prices from \$161,000 to \$225,000. The transactions were used to support the contention that Respondent overvalued Petitioners’ home. Mr. Taylor did not compare the individual sale prices of these transactions to the actual values developed by the County. The witness did not adjust the sales in relation to the subject property.

Mr. Taylor further testified the County failed to consider the subject’s location “off the grid” and did not fairly consider the home’s actual value with respect to its location adjacent to state land. The witness testified the proximity to state land is not equivalent to proximity to open space as state land may be leased for oil and gas exploration, mineral extraction and for potential improvements. Because the land was leased to a third party he also incurred additional expense in fencing his residence from cattle on the leased property; expenses in maintaining the fencing and, in some cases, caring for animals seeking shelter in his pole barn.

Respondent’s witness Ms. Wendy A. Hoffman, a licensed appraiser with the Park County Assessor’s Office, developed a sales comparison approach presenting three comparable sales in support of her opinion of value. All of the sales were within Area 5, as is the subject. The sales were all “off the grid” with no public utilities. The comparables had time adjusted sale prices ranging from \$344,000 to \$370,000. Subsequent to adjustments, the value range was \$387,813 to \$481,251. Significant adjustments were applied for quality, size of living area, garage, basement size and finish, and age. Ms. Hoffman concluded to an overall value of \$412,805 without AG benefit. 33.29 acres of the subject property were treated as agricultural and two acres, not considered integral to the agricultural use, were valued separately for a total subject land value of \$16,571. After adjusting the value conclusion of \$412,805 by \$57,883(land value without AG benefit) the value conclusion for the improvements was \$354,922. Addition of the subject’s land value of \$16,571 resulted in a final value for the subject of \$371,493.

In addition to presenting her appraisal report, Ms. Hoffman testified that the lack of public utilities was considered in her analysis as well as proximity to state land.

Colorado 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). Petitioners' opinion of value was based on an equalization methodology using the values assigned by the Assessor to other properties and the argument that the subject was not valued fairly compared to these properties. The Board can only consider an equalization argument as support for the value determined using the market approach. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P.2d 14, 16 (Colo. 1997). For an equalization argument to be effective, Petitioners must also present evidence or testimony that the assigned value of the comparable used was correctly valued using the market approach. As that evidence and testimony was not presented, the Board could only give minimal consideration to the equalization argument presented by Petitioners.

In addition, the Board considered the four comparables presented in Petitioners' Exhibits 1-5 and the seventeen sales in Exhibit 6. Regarding the comparables in Exhibits 1-5 the Board did not find the properties reasonably similar to the subject nor was there any evidence the properties sold during the base period or even the extended base period. The sales identified in Exhibit 6 were simply recorded transactions with no indication of any similarity to the subject and no adjustments were applied to illustrate their values in relation to the subject. The limited information provided by Petitioners was insufficient for the Board to give measureable consideration in refuting Respondent's assigned value.

Petitioners presented insufficient probative evidence and testimony to prove that Respondent's valuation of the subject property at \$371,493 for tax year 2017 was incorrect.

ORDER:

Park County Assessor is ordered to update his/her records to reflect subject's 2017 value as \$371,493.

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).

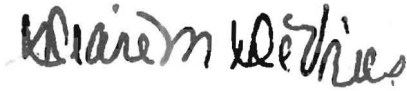
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

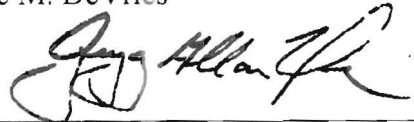
Section 39-8-108(2), C.R.S.

DATED and MAILED this 21st day of November, 2017.

BOARD OF ASSESSMENT APPEALS

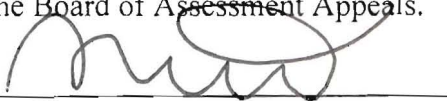


Diane M. DeVries



Gregg Near

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



Milla Lishchuk

