

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 70863

Petitioner:

**GEORGE LLOYD BRACKSIECK REVOCABLE
TRUST,**

v.

Respondent:

**SAN MIGUEL COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 8, 2018, Louesa Maricle and MaryKay Kelley presiding. Mr. George Bracksieck, Trustee, appeared on behalf of Petitioner. Respondent was represented by Amy Markwell, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**Lot 7, Block 37, Town of Telluride
San Miguel County Schedule No. R1010030002**

The subject is an 8,813-square-foot vacant residential site. It is rectangular, moderately to steeply sloped, and has excellent valley and mountain views.

Respondent assigned an actual value of \$1,321,950, which is supported by an appraised value of \$1,321,950. Petitioner is requesting a value of \$450,000.

Mr. Bracksieck testified that he purchased the 8,320-square-foot vacant lot (Lot 11A) in 2002. He purchased the subject lot in 2003 for the setting and the view and as an investment.

Mr. Bracksieck described the immediate area and lack of access to the subject site. Both the alley to the subject's west and the Alder Right of Way to its east are steep, overgrown, and inaccessible. During the development phase, the Town reserved the Alder Right of Way for future

construction of a public road. However, the Town has no plans to construct Alder Street due to its 43% grade (dangerous to maneuver in winter months) and insufficient turnaround space for fire trucks. The subject site carries the address of TBD Alder Street, but Alder Street does not exist and the Town reportedly has no interest in constructing a street.

Mr. Bracksieck listed the subject lot and the adjoining Lot 11A for sale as an assemblage for \$1,750,000. A purchase offer (undisclosed amount) was made in the fall of 2017, and negotiations are ongoing between the potential purchaser and the Town regarding vacating the lot line and resolving issues related to new construction. Mr. Bracksieck reported a 2015 announcement by the Town (Ballot 300) prohibiting vacation of lot lines in many cases. He also described Lot 11A's location within the Hillside Development, a restrictive PUD that requires a minimum 10,000-square-foot lot for new construction, and new construction must provide affordable employee housing.

Mr. Bracksieck discussed Respondent's comparable sales, all of which have public street access. Sale One was located in the most expensive residential area of Telluride near Main Street's highest commercial rent district. Sale Two was a corner site with access from two streets. Sale Three was located near commercial properties and the Town's ski lift.

Mr. Bracksieck presented one comparable sale, Lot 3, a vacant site northwest of the subject with over 10,000 square feet and Gregory Street access. It sold December 2, 2014 for \$500,000.

Respondent's witness, Jeff Marsoun, Certified Residential Appraiser for the San Miguel County Assessor's Office, testified that the subject lot will likely be sold together with Lot 11A due to the subject's difficult access as well as PUD restrictions on Lot 11A. He also noted that vacating the lot lines between the two could prove difficult due to zoning differences between the two lots and other Town restrictions.

Mr. Marsoun presented three comparable sales of vacant sites ranging in size from 3,498 to 5,000 square feet. Sale prices ranged from \$1,150,000 to \$2,350,000. All three had public street access and were adjusted downward by 45% to reflect the subject's lack of access. Mr. Marsoun also made adjustments for location, lot size, view, topography, and privacy. Adjusted values ranged from \$1,330,950 to \$1,480,500. Mr. Marsoun concluded that this range supports the assigned value of \$1,321,950.

Mr. Marsoun declined use of Petitioner's comparable sale, Lot 3. The witness testified that the sale took place outside the statutory 18-month base period. In addition, he considered it dissimilar to the subject in its steeper terrain (limiting building size) and its higher location. He also testified that it is impacted by Hillside District's zoning requirements, which will regulate new construction architecturally in order to preserve views (maximum of 800 square feet per roof panel).

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

The Board is persuaded that the subject property is a buildable site. It is further convinced that the subject lot cannot be accessed from a public road, that neither the adjoining alley nor the

Alder Right of Way offers access, and that there are no plans by the Town to convert Alder Right of Way to Alder Street in the foreseeable future. The Board also recognizes that the subject lot and Lot 11A will most likely be sold together.

The Board is not convinced of the comparability of Respondent's Sale Three's to the subject. Its commercial location is far superior, reflected by Respondent's location adjustment of \$705,000. Further, its \$2,350,000 sale price is considerably higher than that of Sales One and Two, suggesting appeal to a different buyer. Respondent's Sale Three is dismissed from consideration.

The Board finds that Respondent's Sales One and Two are better comparisons. Both are residentially-zoned vacant sites in the Town. With no convincing arguments to the contrary from Petitioner, the Board accepts their adjusted sale prices of \$1,429,750 for Sale One and \$1,330,950 for Sale Two.

The Board finds that Petitioner's sale of Lot 3, a 10,000 square-foot vacant lot near the subject, is a valid comparison that sold within the extended base period. However, Petitioner made no adjustments to its \$500,000 sale price for differences in characteristics or for time. The Board, based on testimony, finds adjustments necessary but is relegated to qualitative adjustments due to lack of data and finds as follows. First, while larger, Lot 3's steeper topography will present severe challenges to new construction (positive adjustment). Second, building restrictions per zoning reportedly exist for Lot 3, whereas they do not for the subject (positive adjustment). Third, Lot 3 has access from Gregory Road unlike the subject (negative adjustment). The Board is unable to determine comparison with regard to view, and the Board finds no adjustment to be appropriate for location.

The Board is convinced that the subject's market value is greater than the sale price of Lot 3 (\$500,000) by a considerable amount and less than adjusted sale prices for Respondent's Sales One (\$1,429,750) and Two (\$1,330,950). Based on testimony and evidence, it finds a value of \$1,000,000 supportable.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$1,000,000.

The San Miguel 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.

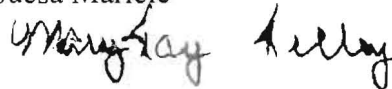
Section 39-8-108(2), C.R.S.

DATED and MAILED this 20th day of February, 2018.

BOARD OF ASSESSMENT APPEALS

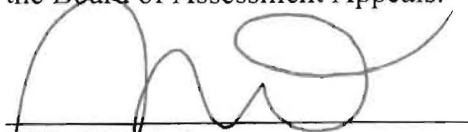


Louesa Maricle



MaryKay Kelley

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



Milla Lishchuk

