

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>LARRY BRYAN &amp; CAROLYN L. LINK,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GUNNISON COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Larry B. Link Address: 1214 South Summit Drive Holts Summit, Missouri 65043 Phone Number: (573) 896-4412 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 38136</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 3, 2002, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se via telephone conference. Respondent was represented by David Baumgarten, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Gardner 8, #11767 Quartz Creek Subd B555 P422  
(Gunnison County Schedule #: R008293)**

Petitioner is protesting the 2001 actual value of the subject property, a mining claim located in Quartz Creek Properties known as the Gardner 8, #11767. The site is comprised of 2.436 acres of a level site of native grass and sage. There is seasonal access and utilities to the site.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject has been overvalued. The comparable sales used by the Respondent are superior to the subject. The three sales used are much larger, have better access and the site area has a large degree of trees.

### **Respondent:**

Respondent contends that the subject has been correctly valued based on the market comparison approach.

## **FINDINGS OF FACT:**

1. Mr. Larry Link, Petitioner, presented the appeal on his own behalf via telephone conference.

2. Based on the market approach, Petitioner presented an indicated value of \$13,500.00 for the subject property.

3. Petitioner presented property record cards for the Cuba #15476 and the Gloucester #7. The property records indicate that the Cuba #15476 was split into two sites. The property owner is the same for both sites. No adjustments were made and no sales dates were provided. An additional list of residential and mining claims located in the Quartz Creek subdivision was submitted as well. The list included the sales date, selling price and lot size. No adjustments were made to any of the sales.

4. Mr. Link testified that the Cuba is the most similar to his property. The Cuba was valued at \$13,500.00 and he believes that his property should be valued the same.

5. Mr. Link testified that the subject is mainly sagebrush with no trees. The site area is not level and has only a small building pad. The Pitkin city dump is located to the south of the subject. The comparable sales used by the Respondent all have trees and superior site utility. The Respondent did not adjust the sales for any of these differences.

6. Mr. Link testified that the sites in the subdivision are valued differently based on the close proximity of utilities available to the sites. The sites located in the lower elevations have available utilities, while the other sites have no utilities.

7. Under cross-examination, Mr. Link testified that utilities are close in proximity to the Cuba Mine. However, they do not actually exist on the site. There is a transformer located on the subject site providing electricity.

8. Petitioner is requesting a 2001 actual value of \$13,500.00 for the subject property.

9. Respondent's witness, Mr. Ray Wood, a registered appraiser with the Gunnison County Assessor's Office, presented an indicated value of \$24,000.00 for the subject property, based on the market approach.

10. Respondent's witness presented three comparable sales ranging in sales price from \$23,500.00 to \$36,000.00 and in size from 7.85 acres to 9.79 acres. There were no adjustments made to any of the sales.

11. Mr. Wood testified that the subject is located in the Quartz Creek Properties Subdivision consisting of approximately 350 mining claims. The sites range in size from less than one acre to the standard 10.33 acres. There is seasonal access to the sites.

12. Mr. Wood testified that the claims located at the lower elevations have electric and telephone utilities to the site and the claims located at the higher elevations have no utilities. During the 1980's the area experienced stagnation in building, however the area is currently experiencing a growth stage with construction of upper scale housing.

13. Mr. Wood testified that the comparable sales used have utilities to the site, common to the subject. The size of the parcel was not a direct correlation to the sales price. Many larger sites sold for less than smaller sites. This is why the assessor uses a "site" value rather than a price per acre for sites in the area.

14. Mr. Wood testified that the value is based primarily on the availability of utilities on the site. All three comparable sales have utilities and adequate area for a building site. The value for the subject was based primarily on the mid selling price range of the comparable sales presented.

15. Mr. Wood testified that the Cuba #15476 is not considered to be a suitable comparison to the subject. This site has been split and listed on two separate schedule numbers, access is not as desirable as the subject and the Cuba does not have utilities. Additionally, the Cuba sold outside the data collection period.

16. Under cross-examination, Mr. Wood testified that there was no data to support any differences in the sites with trees and the ones with no trees. The subject site has a view and no trees and the sales have trees with no view, indicating an offset if any adjustment would be warranted. The primary value is based upon the availability of utilities and on a site basis, not on the size of the acreage.

17. Respondent assigned an actual value of \$24,000.00 to the subject property for tax year 2001.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001.

2. The Board has carefully considered all admitted evidence and testimony and has affirmed the Respondent's value. The Respondent presented three comparable sales supporting the value conclusion. The Board concurs with the Respondent that any potential buyers will consider the utility of the site and the availability of utilities to the site as a motivation for purchase.

3. The Board could give little weight to the Petitioner's comparables. The Cuba#15476 has been split and listed on two separate schedules. There are no utilities on site and it sold past the data collection period. The information provided to the Board on the Gloucester# 15180 mine was assessment information only. There was no sales date or other data to determine any comparisons to the subject. The Board can consider assessment information as a basis for additional support for the value. However, the Board is prohibited from using assessment data only to determine a value for the subject.

4. The Petitioner raised the issue over the subject site not having trees and what impact it has on the overall value. The Respondent's comparable sales have trees on site and the subject does not. The Board was persuaded by the Respondent's testimony that there would be an offset in the value for the sites with trees and no view versus the sites with views and no trees.

5. The Respondent's assigned value takes into consideration all the factors affecting the overall valuation. The assigned value is well documented, supported and is affirmed based on the evidence and testimony provided.

**ORDER:**

The petition is denied.

**APPEAL:**

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 11th day of June, 2002.

BOARD OF ASSESSMENT APPEALS

*Karen E Hart*

Karen E. Hart

*Debra A. Baumbach*

Debra A. Baumbach

This decision was put on the record

JUN 11 2002

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

*Penny S. Bunnell*  
Penny S. Bunnell

