

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KYLE W. TOUCHSTONE,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Kyle W. Touchstone Address: 1937 Harbert Avenue Memphis, TN 38104 Phone Number: (901) 725-8139 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38521</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 22, 2002, Claudia D. Klein and Mark R. Linné presiding. Petitioner appeared pro se. Respondent was represented by Jennifer Davis, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 10 CHALK CREEK ESTATES
(Chaffee County Schedule No. R342324300077)**

Petitioner is protesting the 2001 actual value of the subject property, a single-family residential lot that is located in an 11-lot subdivision. The subject comprises one-acre, and features views of the Chalk Cliffs and Mount Princeton. The main part of the lot is approximately 10-feet above Chalk Creek.

ISSUES:

Petitioner:

The subject is a one-acre creek side lot located within the Chalk Creek Estates Subdivision. The subject subdivision is a rural subdivision. The Respondent has failed to utilize appropriate comparable sales or make adjustments for differences in locational and physical characteristics in comparison to the subject property in concluding a value.

Respondent:

Respondent contends that the value assigned to the subject property is appropriate and supported by the valuation information considered.

FINDINGS OF FACT:

1. Mr. Kyle W. Touchstone, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$44,902.00 for the subject based on an examination of comparable sales.
3. The witness testified that the subject property was purchased as a buffer to an adjacent property to protect a view.
4. The witness testified that the subject is in the flood plain and requires engineered plans. In addition, the sewer system needs to be specially engineered. The subject has the potential for a high-water table. All of his comparables have similar locations and physical characteristics.
5. The witness testified that his comparables were all within 1½ miles of the subject. All of the sales occurred within ten months prior to the end of the sales period. He described Comparable #2, within the Silver Cliff Club subdivision, as a larger lot that sold for \$73,000.00 in January 2000. He made an adjustment for the size of the lot. The property is located on a creek. The property was on well water.
6. The witness described Comparable Sales #1 and #3 as adjacent lots. Comparable #3 was sold as a single unit even though it was two lots. The witness testified that adjustments were made to this sale for size. In addition, the witness indicated that he made an adjustment for a water system. He described this sale as a portion of a 69-lot subdivision. He considered the water system as an amenity item. Every property owner is required to tap into the water system. Value/cost of the tap is \$4,000.00; he made a \$3,000.00 adjustment for this factor.
7. The witness testified that there were certain properties that he did not utilize in his sales analysis. He did not use a lot sale that occurred in the City of Buena Vista, because he felt that it was inappropriate to use a city lot to value a rural lot. Amenity items for a city lot make this inappropriate.

8. The witness testified that another sale he did not consider was a golf course lot that is on Cottonwood Creek in proximity to the Ivy League Golf Course. This sale occurred in 1999. The lot benefits from the presence of the water and sewer system for the golf course, though the lot was not part of the original golf course development. The cash value of the pre-paid taps included in this sale is \$9,200.00

9. Under cross-examination, the witness testified that he purchased the subject property in 1995 for a sales price of \$49,000.00. He believed that the property value had declined since that time.

10. The witness testified that he made a linear adjustment to each of the comparable sales for size.

11. In response to questions from the Board, the witness indicated that the subject was not in a Federal Wetlands program.

12. Petitioner is requesting a 2001 actual value of \$44,902.00 for the subject property.

13. Dean C. Russell, Colorado Licensed Appraiser, Vacant Land Appraiser with the Chaffee County Assessor's Office, testified that he was familiar with the subject property, and had performed an exterior inspection of the property.

14. The witness presented an indicated value of \$74,658.00 for the subject property for tax year 2001.

15. Respondent's witness presented six comparable vacant lot sales ranging in sales price from \$49,900.00 to \$120,000.00 and in size from .91-acres to 2.19-acres. After adjustments were made, the sales ranged from \$66,583.00 to \$100,836.00.

16. The witness testified that adjustments should not be made on a linear relationship. Size adjustments are not straight-line, but curvilinear in nature. He utilized SPSS statistical software to analyze the data.

17. The witness testified that Comparable Sale #1 had a wetlands component, and for this reason, the property was adjusted for this property characteristic. He considered the sale very similar to the subject.

18. With respect to Comparable Sale #2, an adjustment was made for the location within a flood plain. An adjustment was also made for the additional cost to develop the lot, and for size. Comparable #3 is within Buena Vista, and though in the town, the property is in the rural part of the town. Adjustments were made for size and water and sewer. Comparable #4 was the sale of the subject property. A time adjustment was applied for its date of sale. Comparable Sale #5 represented an earlier sale of a property in the same subdivision.

19. The witness testified that the Chalk Creek Valley area is primarily a second home area.

20. Mr. Russell testified that all of the comparables are also located in the flood plain.
21. The witness testified that city services are fairly accessible to the subject and all of the comparables. The subject is located approximately 15 minutes from Buena Vista.
22. The witness testified that he had examined the Petitioner's sales. He noted that the sales did not make any time adjustments. He noted that Petitioner's Comparable Sale #1 was unusually shaped, and has a steep slope. The property has a width that varies from 130 to 50 feet. It includes a narrow portion that narrows from 50 to 20 feet in width. This sale had the potential problem of fitting both a home and a sanitary disposal system on the property. Previous owners have expressed concern on the buildability of the comparable. The property includes setbacks that additionally complicate the developability of the property.
23. Under cross-examination, the witness testified that he did not know if any plans had been rejected by the building department for the Petitioner's Comparable Sale #1.
24. The witness made an adjustment to Comparable Sale #2 based on visual inspection. He determined an adjustment for additional development costs for being in the flood plain at a lower elevation than the subject, and for view.
25. The witness testified that he had ignored the portion of the property that is in a wetland area for Comparable Sale #2. Additionally, he could not comment on the water system referenced by the Petitioner.
26. With respect to Comparable #6, the witness testified that the lot is not directly on the golf course, so he did not make an adjustment. A row of houses separates this comparable from the golf course.
27. The witness testified that he was not aware of and, therefore, did not make an adjustment for the pre-paid water taps. He felt that an adjustment of \$7,500.00 to \$10,000.00 for this feature would be an appropriate adjustment factor.
28. The witness testified in redirect examination that he took the buildability of a given lot into consideration in valuing property.
29. The witness testified that he had inspected all of the comparable sales that he utilized in the analysis.
30. In response to questions from the Board, the witness testified that he had walked Comparable Sale #2, and his adjustments were based on this inspection.
31. The Respondent assigned a value of \$74,658.00 for 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 sales submitted by the Respondent appear to adequately consider the market conditions impacting the subject property for tax year 2001. Additionally, the sales utilized by the Respondent were all located within a floodplain, and thus have similar requirements for constructing a dwelling.

3. While there were issues raised by both parties with respect to the appropriateness and suitability of the comparables utilized to value the subject, the Board is ultimately persuaded that the actual sales within the subject subdivision, including the sale of the subject, appropriately adjusted for changes in market conditions, provides support for the current assigned value by the Respondent.

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 21st day of February, 2002.

BOARD OF ASSESSMENT APPEALS

Claudia D. Klein

Claudia D. Klein

Mark R. Linné

Mark R. Linné

This decision was put on the record

FEB 26 2002

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

Diane Von Dollen

Diane Von Dollen 38521.02

