

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>CHRISTOPHER S. LINSMAYER AND ELIZABETH H. MCCANN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GRAND COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Christopher S. Linsmayer, Elizabeth H. McCann</p> <p>Address: 650 Detroit Street Denver, CO 80206</p> <p>Phone Number: (303) 866-3261</p> <p>E-mail:</p> <p>Attorney Reg. No.:</p>	<p><b>Docket Number: 39007</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 30, 2002, Claudia D. Klein and Mark R. Linné presiding. Petitioners appeared on their own behalf. Respondent was represented by Anthony J. DiCola, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**BLK 10 LOT 1 WILDACRES FIRST SUB  
(Grand County Schedule No. R175820)**

Petitioners are protesting the 2001 actual value of the subject property, a vacant residential site comprising a total of .53 acre, located in the Wildacres First Subdivision, 3 miles south of the Town of Grand Lake, in Grand County, Colorado.

## **ISSUES:**

### **Petitioner:**

Petitioners contend that the subject property is difficult to develop, and is oddly shaped. The Petitioners have attempted to alter the topography in order to enhance its utility. In calculating a value for the subject, the Assessor did not recognize a number of factors, including the fact that Grand County has a road easement on the lot for .17 acre. The road represents a nuisance to the property. Additionally, the steepness of slope presents a difficult construction environment. The Petitioners assert that the property has a view; but this can only be recognized once a home is built. The Petitioners believe that they paid too much for the property.

### **Respondent:**

Respondent contends that the Petitioners purchased the property in March 1999, and the time-trended purchase price supports the valuation assigned to the subject property. The Grand County Assessor has applied time trending from an analysis of more than 200 sales. There have been sales and resales to support the time trending that must be applied to properties. The subject property is located in one of the most desirable subdivisions in Grand County. Mountain property is steeply sloping by definition.

## **FINDINGS OF FACT:**

1. Mr. Christopher S. Linsmayer, Petitioner, presented the appeal on Petitioners' behalf.
2. Based on the market approach, Petitioners presented an indicated value of \$65,000.00 for the subject property.
3. The Petitioners testified that their site is very challenging to build on.
4. The witness testified that the value of the lot is its view. Their property is on a ridge point and it is difficult to build on. Their topography includes numerous boulders, which further complicate development on the site.
5. The witness testified that the view from the site is at the top of a ridge. There is a limited area on the top of the ridge suitable for construction. There is an easement on the property. It is for the road for the primary access to the second phase of the development. While the roadway provides access, it also represents aesthetically undesirable features that severely impact the subject. Dust and traffic are prevalent on the property. The roadway is on a slope.

6. The Petitioners testified that they have made efforts to modify the site to provide greater suitability for building. Mr. Linsmayer testified that he has met with numerous excavating and contracting firms in order to determine the feasibility of moving the boulders on site. It was determined that the boulders are too large. Two contractors indicated that the boulders had to be destroyed.

7. Mr. Linsmayer testified that he visited the site in May 2000, and began some efforts to excavate the site for a driveway. Only limited work was completed by November 2000. He has spent approximately 60 hours with a backhoe attempting to create a level building site on the lot.

8. The Petitioners presented numerous sales ranging from \$35,000.00 to \$59,000.00. There are two sales at \$55,000.00 and four sales at \$59,000.00. All of the sales are located within the same subdivision in close proximity to their lot.

9. The witness testified under cross-examination that the steepness of their site provides the view, but also limits the use of the site.

10. The witness testified that they looked at other parcels in the county, but none had a view comparable to the subject.

11. The witness testified that the road was present when they purchased the property. The rocks were also present when he purchased the property.

12. The witness testified that they have spent \$7,500.00 improving the topography and access of the site.

13. The witness testified that in retrospect, they would have preferred any of the other adjacent lots in his subdivision that were situated above the ridge. They were unaware of the availability of these lots when they were making their purchase decision.

14. Petitioners are requesting a 2001 actual value of \$65,000.00 for the subject property.

15. William Wharton, Colorado Certified Residential Appraiser, Chief Appraiser for the Grand County Assessor's Office, presented the following value for the subject property:

Direct Sales Comparison Approach: \$80,000.00

16. The witness testified that he has visited the subject site on three occasions. He has inspected all of the comparables used in his report, and has additionally visited each of the comparable sales submitted by the Petitioners.

17. In developing a time adjustment factor for the sales, the witness testified that he considered 291 sales, and that time was a significant factor in the analysis process. The witness testified that the subject subdivision is one that first came on line in 1999, and has been very popular in recent years.

18. The witness testified that unpaved roads were typical in Grand County. The subject experiences a volume of traffic that is typical for subdivisions in this area.

19. Mr. Wharton presented five comparable sales, of which the first was the sale of the subject itself during the applicable base period. The subject sold in March 1999 for \$65,000.00. The sale was adjusted to June 30, 2000, and after the application of the appropriate time adjustment factors, the time adjusted sales price was \$79,800.00.

20. The witness testified that he considered four sales in addition to the subject sale. Comparable Sale #2 also has boulders, and is similar in size and topography. He feels that this property has a worse view than the subject.

21. The witness testified that Comparable Sale #3 was a larger lot, and he applied a downward adjustment to accommodate the differential in land area. He feels that the views from this parcel are inferior in comparison to the subject.

22. The witness testified with respect to Comparable Sale #4, that it is off of the ridge, and has less desirable views. He applied an adjustment for the limited views. He felt that if a two-story house were built, the house might have a view, but that views are evaluated based on ground level.

23. The witness testified that Comparable Sale #5 was adjusted for its inferior views, the steepness of slope, and its size.

24. Mr. Wharton testified that, though a consideration of all of the comparables would appear to indicate a higher sales price for the subject, he weighted the actual sale of the subject to the greatest extent and concluded a value of \$80,000.00 from the arrayed comparable sale data.

25. The witness testified that he is required by Colorado Revised Statutes to apply a time adjustment, and noted that Grand County has passed the state audit that evaluates the accuracy of time adjustment factors.

26. The witness testified that he felt that the easement for the roadway has no discernible impact on value. Though the easement has a width of 47 feet, the building setback for front yards in Grand County is 30 feet, and thus the first 30 feet of the 47-foot easement would be unbuildable under any circumstances.

27. The majority of the Petitioners' sales were in a lower location, and the topography indicates that the average elevation for the comparable sales is 80 feet lower than the subject.

28. The witness testified that the Petitioners' sale (Exhibit D), was an extremely steep sloping property, will be very difficult to build on, and is not comparable to the subject.

29. The witness further testified with respect to sales (Exhibits E, F, G, and H) submitted by the Petitioners. He indicated that the sales were all inferior to the subject, based primarily on views and other factors.

30. The witness testified that the sales identified as Exhibits I, J, K by the Petitioners had similar views, and all were determined to be inferior to the subject. The sales identified as Exhibits L, M, N, and O also had limited views.

31. The witness testified under cross-examination that he did not feel that an easement had a negative impact on value. The witness agreed that a road easement would preclude the property owner from constructing anything on the easement. The witness did not make an adjustment for the easement because he felt that it did not have a negative impact.

32. The witness testified that all of the lots within the subject subdivision have front, back, and side setbacks.

33. The witness testified that he examined United States Geological Survey (USGS) maps for topographical evaluation of the subject lot.

34. The witness agreed that many of the sales that the Petitioners utilized were adjacent to sales that he used in his analysis.

35. Under redirect testimony, the witness testified that the view for the subject was rated as “average,” which under Grand County guidelines indicates 90 degree to 270-degree views. The Petitioners’ comparable sales, in comparison, only had views of trees and generally limited views.

36. The witness testified that the subject road easement was stated in the warranty deed. Many subdivisions in Grand County have roadways that are platted as easements.

37. Respondent assigned an actual value of \$79,840.00 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 was persuaded by the actual base year sale of the subject, after the application of appropriate adjustment factors for time.

3. The tradeoff for the view amenity is a steep slope, but the Board was convinced by the testimony of the Respondent’s witness, who indicated that this was fairly typical for mountain resort communities. The nature of the subject’s terrain and topography are also fairly consistent with other properties in the subdivision.

4. The impact of the roadway easement was mitigated to the greatest extent by the county setback requirements. The Board was not persuaded that the property was significantly impacted by the easement.

5. The sales submitted by the Respondent were ultimately more persuasive in providing insight into the valuation of the subject.

**ORDER:**

The petition is denied.


**APPEAL:**

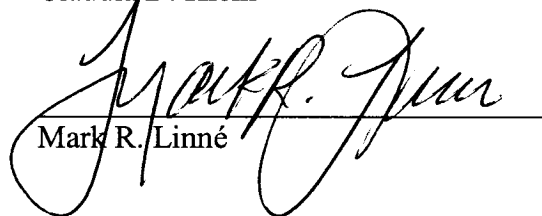
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 28<sup>th</sup> day of February, 2002.

**BOARD OF ASSESSMENT APPEALS**


  
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Claudia D. Klein

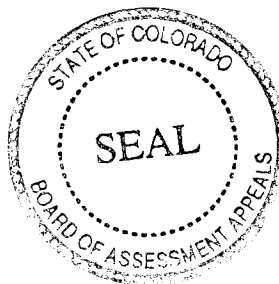
  
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Mark R. Linné

This decision was put on the record

**FEB 20 2002**

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

  
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Diane Von Dollen



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