

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CONSTANCE K. BUETOW,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Barton Buetow Address: 5585 South Berry Lane Greenwood Village, Colorado 80111 Phone Number: (303) 779-8069 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39709</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 25, 2002, Karen E. Hart and Claudia D. Klein presiding. Petitioner was represented by Barton Buetow, Husband and Agent. Respondent was represented by Jennifer Pielsticker, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**KEY 2 SEC 36 TWN 6 RNG 71
(Jefferson County Schedule No. 069364)**

Petitioner is protesting the 2001 actual value of the subject property, a vacant land parcel containing 9.118 acres of land located on Callae Drive in Conifer, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the Respondent has overvalued the subject land parcel, and has not adequately considered the property's extremely steep topography and additional costs required to develop the site, as well as the variances that are required to develop the site.

Respondent:

Respondent contends that the subject property has been correctly valued based on market data available.

FINDINGS OF FACT:

1. Mr. Barton Buetow, Husband and Agent, appeared as a witness and presented the appeal on behalf of Petitioner.

2. Based on the market approach, Petitioner presented an indicated value of \$29,029.00 for the subject property.

3. Petitioner presented three comparable sales ranging in sales price from \$46,000.00 to \$53,000.00 and in size from 8.2 acres to 11.5 acres. After adjustments were made, the sales ranged from \$42,590.00 to \$53,390.00, before taking into consideration topography and additional costs.

4. Petitioner verbally replaced Sale 1 in the written evidence with a new comparable sale, also located on Baird Road. He indicated this was a better comparable as it was smaller than the original comparable and more similar in size to the subject.

5. Mr. Buetow testified that the property is bisected by Callae Drive, which results in two parcels, one of 2.5 acres and one of approximately 6.5 to 7 acres. The Planning and Zoning Department has indicated that the road bisecting the property makes two buildable lots from their point of view. However, a variance would have to be granted for well and septic, as the Jefferson County Health Department requires a minimum lot size of 5 acres for wells and septic systems.

6. Mr. Buetow testified that there is a road on the top side of the property, Lori Drive. This road comes to a tangent at the property and the property cannot be accessed from the road. There was a driveway on the property when it was purchased, which was an agreement with the neighbor for an access easement. The neighbor subsequently withdrew the offer of the easement and has blocked the driveway to prevent the subject owner from getting an adverse possession easement.

7. Mr. Buetow testified that due to the steepness of the lot, driveway grade variances and variances from the fire department would have to be obtained. The Petitioner has not applied for any variances as yet, as it would cost approximately \$5,000.00 to apply for variances. The Jefferson County Planning Department requires a survey, an engineered road and a \$600.00 application fee. The Jefferson County Health Department requires an engineered septic system.

8. Mr. Buetow testified that in order to get the variances, additional costs would be incurred over and above typical development costs in the area. These include, at a minimum: road costs, \$6,000.00; upgraded septic treatment system required by the health department, \$5,000.00 to \$7,000.00; fire sprinkler system required by fire department, \$5,000.00. These additional costs reinforce the 40% adjustment the Jefferson County Assessor's Office generally uses for excessive topography. This is assuming the variances would be granted.

9. Under cross-examination, Mr. Buetow testified that the road cost of \$6,000.00 was an estimate from an engineer, the \$5,000.00 septic system figure is from the Jefferson County Health Department, and that he did confirm with the fire department that a fire sprinkler system would be required.

10. Mr. Buetow testified that when the property was purchased in 1984, the Jefferson County Planning and Zoning Department did not want it to be two parcels and now they do. He indicated that he cannot get a building permit for the upper portion of the parcel, which is the only flat part of the parcel and is the most advantageous spot to build due to views. He was told by health department personnel in the week prior to this hearing that only the lower portion of the site could be built on.

11. Mr. Buetow testified that the 40 degree slope characteristic is on most of the property.

12. Petitioner is requesting a 2001 actual value of \$29,029.00 for the subject property.

13. Respondent's witness, Mr. Charles Ewing, a Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$57,900.00 for the subject property, based on the market approach.

14. Respondent's witness presented three comparable sales ranging in sales price from \$46,000.00 to \$76,000.00 and in size from 6.084 acres to 8.6 acres. After adjustments were made, the sales ranged from \$53,390.00 to \$83,100.00.

15. Mr. Ewing testified that he has visited the property and that it is steep mountain property, with some areas not as steep as others. The photograph on page 12 of his report shows the road going through the property.

16. Mr. Ewing testified that he made an error in making the view adjustment on Comparable 2 and that this adjustment should be deleted.

17. Mr. Ewing testified that he does not take into account differences in development costs in valuing properties.

18. Mr. Ewing testified that the market suggests 40% discount for steepness, but only 10% is in his grid. He clarified that the 40% adjustment would be comparing a flat property to the subject. Percentage grade differences are the percentage topography adjustments.

19. Under cross-examination Mr. Ewing testified that the higher cost septic system required by the Jefferson County Health Department for the subject property will at some point in time become the standard type of septic system, but that it is not the standard system at this time.

20. Under cross-examination, Mr. Ewing testified that the picture for Comparable 3 is taken from the steep portion of the site, not from the flat, easily accessible building site portion.

21. Respondent assigned an actual value of \$50,000.00 to the subject property for tax year 2000.

CONCLUSIONS:

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

2. The Board was persuaded by the Petitioner's evidence that the subject property will incur additional costs over and above typical development costs.

3. The Board does not agree with the Respondent's position that development costs are not considered when evaluating comparable sales. The market does recognize additional costs to develop certain properties and prices are adjusted accordingly. The market would also recognize the possibility of variances not being granted and rendering the property unbuildable.

4. The Board is not convinced that the Respondent's comparables are the best comparable sales, and that the adjustments are accurate, in view of the wide range of adjusted sale prices. In addition, the Petitioner presented a more recent comparable sale, which the Respondent did not consider.

5. The Petitioner's sales appear to be more indicative of the subject's value and would appear to be more comparable, in view of the more narrow indicated value range.

6. The Board, however, is not convinced that the Petitioner's discount of 40% is the appropriate discount to the comparables. It appears that much of this 40% has already been taken into account in the sale prices of the comparables, due to their similarity to the subject. Therefore, the Board adjusted the comparable sales by the estimated amount of additional development costs, \$16,000.00. The indicated value range of the Petitioner's comparable sales then becomes \$26,590.00 to \$37,390.00. Most emphasis is placed on Sale 1 as it is the most similar in size to the subject.

7. After careful consideration of all the presented evidence and testimony, the Board concluded that the 2001 actual value of the subject property should be reduced to \$33,000.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$33,000.00.

The Jefferson County Assessor is directed to change his records accordingly.

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 20th day of April, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Claudia D. Klein
Claudia D. Klein

This decision was put on the record

APR 25 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

