

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>LARRY BRYAN AND CAROLYN L. LINK,</p> <p>v.</p> <p>Respondent:</p> <p>GUNNISON COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Mr. Larry Link Address: 1214 S. Summit Drive Holts Summit, MO 65043 Phone Number: (573) 896-4412</p>	<p>Docket Number: 41426</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 19, 2004, Steffen A. Brown and Judee Nuechter presiding. Petitioners appeared pro se. Respondent was represented by Mr. Thomas A. Dill, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Gardner No. 8 #11767, Quartz Creek Subdivision, B555 P422
(Gunnison County Schedule No. R008293)**

Petitioner is protesting the 2003 actual value of the subject property, a 2.436-acre parcel of vacant land.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued for tax year 2003.

Respondent:

Respondent contends that the subject property has been valued correctly based on the market approach. The subject meets all criteria to be valued as a building site as do all of the comparable sales. The subject is considered to be a mining claim.

FINDINGS OF FACT:

1. Mr. Larry Link presented the appeal on behalf of Petitioners.
2. Petitioner presented an indicated value of \$8,000.00 for the subject property. He did not present any comparable sales.
3. Petitioner testified that he did not submit any Rule 11 documentation because he has been ill. The value Petitioner is requesting is based on his interpretation of the Respondent's appraisal report.
4. During cross-examination, the Petitioner testified that the subject property is overvalued because it is located adjacent to the Pitkin town dump. The subject property has electric service and possibly telephone service.
5. Petitioner is requesting a 2003 actual value of \$8,000.00 for the subject property.
6. Respondent's witness, Mr. Donald R. Rundell, an appraiser with the Gunnison County Assessor's Office, presented an indicated value of \$23,000.00 for the subject property based on the market approach.
7. Respondent's witness presented five comparable sales ranging in sales price from \$15,900.00 to \$25,000.00 and in size from 4.407 acres to 10.33 acres. After adjustments were made, the sales ranged from \$22,900.00 to \$25,000.00.
8. Respondent's witness testified that the area has seasonal use; summer vacation cabins or camping sites are typical. The subject site is mostly level with sage and native grasses and is located on a dirt road with seasonal access. The subject site has electric and telephone service.
9. Mr. Rundell testified that the comparable sales are all located in the Quartz Creek area. The comparable sales were adjusted by \$6,000.00 for differences in topography and by \$7,000.00 for electrical service to the sites. The comparable sales were valued as building sites rather than

being valued based on lot size. His analysis of the properties in the Quartz Creek Properties Subdivision indicated that there were no incremental differences in value based on the size of the lots; but instead each is valued as an individual building site.

10. The Respondent's witness testified that he did not see a dumpsite on the road past the subject property but there are old mine tailings on an adjacent property. There is no legal city dump in the town of Pitkin.

11. Respondent's witness testified that he considered the income and cost approach but they were not considered applicable for vacant land valuation. The market approach is based on sales data and is the only reliable approach.

12. Mr. Rundell testified that the subject subdivision meets the minimum site requirement for Gunnison County of one acre per building site.

13. During cross-examination, Respondent's witness indicated that he made a physical inspection of the subject property. The photos he took at that time indicate that the subject property is moderately level and is not a wasteland. Mr. Rundell believes that the subject property is a legitimate building site. He maintained that sites have value and that value is not based on size. Building sites often sell for similar prices regardless of size.

14. The witness testified that the difference in value for the three mining claims in Respondent's Exhibit D is a difference in utilities. The Gardner 4, 5, and 6 were originally assessed at \$23,000.00 apiece. An error occurred in the Assessor's office, which was corrected to show that Gardner 4 is valued at \$23,000.00 because it has utilities and the other two are valued at \$16,000.00 each because they do not have utilities. A plat map of the Cuba mining claim was presented as Respondent's Exhibit A-1. This parcel was originally 10.33 acres and was assessed at \$8,000.00 for the lower portion because the Cuba has a prior claim that lies over the top of it and that claim takes precedence for use. The top of the parcel has a separate value of \$8,000.00 for a total assessed value of \$16,000.00 due to no utilities to the site.

15. Respondent assigned an actual value of \$23,000.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. The Board was most persuaded by Respondent's well-documented market approach that included five comparable sales of mining claims in the Quartz Creek Properties Subdivision.

3. The Petitioner did not present any comparable sales, but relied on the Respondent's exhibits that indicate current assessed values for other mining claim properties.

4. Based on the evidence and testimony presented, the Board is unable to determine whether a town dump is located near the subject property. The Petitioner did not present any photos to substantiate the existence of a dump or his testimony that the subject property has a steep slant and is a wasteland.

5. The Board supports the Respondent's valuation of mining claims as building sites and concurs that site size does not necessarily indicate value.

6. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$23,000.00 for tax year 2003.

ORDER:

The petition is denied.

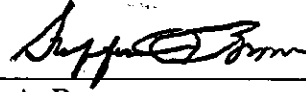
APPEAL:

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 4th day of May, 2004.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

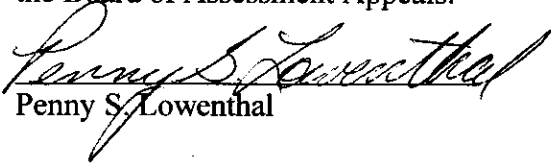


Judge Nuechter

This decision was put on the record

MAY 03 2004

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



Penny S. Lowenthal

