

<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>MICHAEL W. AND KATHLEEN F. ROBERTSON,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Michael W. Robertson Address: 19044 E. Pinewood Drive Aurora, Colorado 80016 Phone Number: (720) 870-2333</p>	<p><b>Docket Number: 42175</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 3, 2004, Karen E. Hart and Rebecca Hawkins presiding. Petitioners appeared pro se. Respondent was represented by Michelle B. Gombas, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**8750 North Sundown Trail, Parker, Colorado  
(Douglas County Schedule No. R0231845)**

Petitioner is protesting the 2003 actual value of the subject property, a 5-acre parcel of vacant land located in the Butterfield subdivision of unincorporated Douglas County

## **ISSUES:**

### **Petitioners:**

Petitioners contend that the subject property is overvalued. He believes that the comparable sales used by Respondent are superior to the subject. Respondent's appraisal does not address specific deficiencies of the subject property.

### **Respondent:**

Respondent contends that the subject property has been properly valued based on the market approach. The comparable sales used are similar to the subject and were adjusted for time and different characteristics.

## **FINDINGS OF FACT:**

1. Mr. Michael Robertson presented the appeal on behalf of Petitioners.
2. Based on the market approach, Petitioner presented an indicated value of \$131,000.00 for the subject property.
3. Petitioner presented six qualified comparable sales ranging in sales price from \$145,400.00 to \$250,000.00 and in size from 3.249 to 5.688 acres. No adjustments were applied to the sales.
4. Mr. Robertson testified that the sales used by Respondent are not comparable to the subject property. Respondent's Sale 1 has a view of the Front Range. Sale 2 has water piped to the area, ponderosa trees and a mountain view comparable to Sale 1. Sale 3 has more amenities than the subject site and an outstanding mountain view.
5. Mr. Robertson described the "dam" on the subject site as a retention pond built by a previous owner. It is located at the low point on the site, with a height of 15 feet and a length of 75 feet. There are no trees on the subject site; it is barren with cactus and scrub oak. The slope begins at road level and continues downward approximately 45 feet. He discovered that a considerable amount of engineering and 2,000 yards of fill dirt would be needed to bring the site up to a minimum standard for building.
6. The subject development of Butterfield does not have water available. Both well and septic are needed to develop the site. Septic requirements increase due to the slope of the site and the prescribed building placement.
7. During cross-examination and questions from the Board, Mr. Robertson testified that the subject property does not have majestic mountain views. He believes the slope of the subject site is atypical for the development. The topography of the subject site has a negative impact on value. He believes the slope would limit building on most areas of the site. He does not have evidence for

costs of engineering and fill dirt. As a result of the limited utility of the subject site, conflicts would arise between the requirements for setbacks and square footage.

8. Petitioner is requesting a 2003 actual value of \$131,000.00 for the subject property.

9. Respondent's witness, Mr. Mike Shafer, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$205,000.00 for the subject property based on the market approach.

10. Mr. Shafer presented four comparable sales ranging in sales price from \$205,000.00 to \$250,000.00 and in size from 3.249 acres to 5.20 acres. After adjustments were made, the sales ranged from \$190,000.00 to \$220,000.00.

11. Mr. Shafer testified that the subject site is located in a development that includes semi-custom and custom homes. He analyzed numerous site sales in the general Parker area that occurred during the base period. Sales were chosen within the same economic area of the subject, similar in size and topography. He chose sales in neighborhoods similar to the subject in quality and value range. Adjustments were not made for differences in site size as the market views each site as one building lot regardless of size.

12. Respondent's Comparable 1 was the only sale that required a time adjustment to reflect an increase in market value. Comparable Sales 1, 3 and 4 were adjusted for superior mountain views. The subject site is mostly meadow with a slope from west to east. It is located off a paved road and has a good view of the surrounding area, but no mountain view. Sale 1 is located in the same development as the subject site. It is also mostly meadow with sloping topography and paved road access, but it has a superior view of the mountains. Sale 2 is located in a competing development and did not require any adjustments. It is mostly meadow with some scrub oak, sloping topography, a gravel road and a mountain view. Sale 3 is located in a competing development, is mostly treed with some scrub oak, and has sloping topography, gravel road access and a similar view. Since the market considers sites with trees more desirable, Sale 3 was adjusted by \$30,000.00. Sale 4 is also located in a competing development. It is mostly meadow with a few trees and some scrub oak, sloping topography and a superior mountain view.

13. Mr. Shaffer testified that the property shown on Page 20 of Petitioner's Exhibit A-1, Butterfield Lot 43, did not sell during the base period and could not be considered. Mr. Shaffer believes that Petitioner's comparable sales at 8905 East Kit Carson Lane and 1189 Tomahawk Road are not located in comparable neighborhoods as they have a lower range of time adjusted sales prices. He testified that the subject site does not have any inferior attributes that were uncharacteristic of sales in the neighborhood.

14. Under cross-examination, Mr. Shaffer testified that he considered improvements and/or amenities in the comparable sales' neighborhoods. He did not physically inspect the comparables used by the Petitioner and does not know if they are on county maintained roads. Mr.

Shaffer did not feel the sales used by Petitioner were similar enough to the subject site to use as comparables. They were not the same caliber as the subject site and neighborhood.

15. In further cross-examination, Mr. Shaffer explained that he did not believe it was necessary to make an adjustment for the slope of the subject site. He felt the slope was typical for the area and the subdivision. He also did not have any information regarding the cost to haul in dirt and bring the topography up to standard.

16. In redirect examination, Mr. Shaffer explained that the subject property needs a well and septic system, which is typical for other sites in the neighborhood. He explained that the slope of the site would not prohibit choices for building areas. He believes the \$30,000.00 adjustment used in the market grid is sufficient.

17. Upon questions from the Board, Mr. Shaffer testified that all sales used in Respondent's Exhibit 1 had mountain views but only Sale 3 had trees. He did not adjust for the retention pond on the subject site as he felt it was far enough from any building envelope.

18. During rebuttal, Mr. Robertson testified that Mr. Shaffer did not take into consideration the homeowner's association setback requirements. This requirement would severely limit where the improvement could be built and the association is not inclined to grant a variance. Mr. Robertson emphasized that the subject site is unique to the neighborhood; it is the only one with a retention pond and has a slope to 45 feet below the road. The comparable sales used by Respondent are not comparable to the subject in terrain and the deficiencies of the subject were not taken into consideration.

19. Respondent assigned an actual value of \$205,000.00 to the subject property for tax year 2003.

## **CONCLUSIONS:**

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

2. The Board could give little weight to Petitioner's sales as no adjustments were made for differences in physical characteristics. However, Petitioner's testimony convinced the Board that the adjustments made to Respondent's comparable sales are not sufficient to reflect the superiority of those sales.

3. The Board reviewed Petitioner's evidence and testimony regarding deficiencies and/or negative factors of the subject property as compared to other sites in the development and to the comparable sales. The Board was persuaded that the value of the site would be affected. These deficiencies and/or negative factors affecting the value may include:

- Flag configuration of the subject site
- Topography and subsequent engineering and fill dirt costs

- Homeowner association requirements for building square footage and setbacks
- Increased septic system costs due to topography
- Lack of common water
- Location and size of retention pond
- Lack of mountain view and trees

3. Due to the lack of specific costs or other supporting evidence, the Board could not make adjustments to Petitioner's comparable sales. The Board found the Respondent's sales to be most compelling, and was convinced that the market does not adjust for minor differences in site size. The Board agrees with Respondent that no size adjustments were necessary.

4. Based on photos contained in Petitioner's Exhibit A-1 and Respondent's Exhibit 1, the Board was convinced that Respondent's Comparable Sale 3 has a mountain view, and that the \$30,000.00 adjustment was not sufficient to reflect both the mountain view and the trees. The Board applied an additional negative adjustment to Respondent's Sale 3 to reflect the superior mountain view.

5. After applying the adjustment mentioned in Conclusion 4 above, Respondent's comparable sales ranged in value from \$175,000.00 to \$200,392.00. The Board reconciled at the low end of the value range due to the negative influences and/or factors found on the subject site.

6. The Board concluded that the 2003 actual value of the subject property should be reduced to \$180,000.00.

### **ORDER:**

Respondent is ordered to reduce the 2003 actual value of the subject property to \$180,000.00.

The Douglas County Assessor is directed to change his/her 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 13<sup>th</sup> day of May, 2004.

BOARD OF ASSESSMENT APPEALS

*Karen E Hart*

Karen E. Hart

*Rebecca Hawkins*

Rebecca Hawkins

This decision was put on the record

MAY 13 2004

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

*Penny S. Lowenthal*  
Penny S. Lowenthal

