

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>ROBERT A. & ANGELA MORELAND,</p> <p>v.</p> <p>Respondent:</p> <p>HINSDALE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Angela Moreland Address: 10669 Tongue Creek Road Austin, Colorado 81410 Phone Number: (970) 835-5085</p>	<p>Docket Number: 42851</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 2, 2004, Judge Nuechter and Diane M. DeVries presiding. Petitioners were represented by Angela Moreland. Respondent was represented by Charles F. Cliggett, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

St. Louis Lode Claim USMS NO 401, 10.33 acres; Bloomington Lode Claim, USMS NO 660, 10.28 acres Galena Mining District T43N R6W (Hinsdale County Schedule No. R001666)

Petitioners are protesting the 2003 actual value of the subject property, two mining claims consisting of 20.61 acres classified as vacant land. Both mining claims are valued under one schedule number since they are adjacent to one another and one is considered inaccessible.

ISSUES:

Petitioners:

Petitioners contend that the subject property should be valued at \$28,710.00, the same as last year, since the property has not increased in value.

Respondent:

Respondent contends that the indicated value for the subject property is \$60,000.00 for tax year 2003 based on the sales comparison approach.

FINDINGS OF FACT:

1. Ms. Angela Moreland presented the appeal on behalf of the Petitioners.
2. Ms. Moreland testified that the subject property is accessible only a few months in the summer. The subject property consists of two mining claims, the 10.28-acre Bloomington claim and the 10.33-acre St. Louis claim. Of the two mining claims, only the Bloomington is accessible. The St. Louis is too steep and is not accessible. The two mining claims are adjacent to one another.
3. Ms. Moreland testified that the property owned by Kent Taylor, a total of 72.017 acres and consisting of the Highland Chief, Chicago, Dorchester and Calcite mining claims, was valued at \$66,690.00 or \$926.00 per acre for 2003. The 10.330-acre Dolly Varden mining claim was valued at \$15,500.00 or \$1,500.00 per acre.
4. Ms. Moreland testified that two other mining claims are valued at \$725.00 per acre and \$1,299.00 per acre, respectively, as set forth in Petitioners' Exhibit A. The subject property is valued at \$2,153.00 per acre.
5. Ms. Moreland is requesting a 2003 actual value of \$28,710.00 for the subject property.
6. Ms. Amy B. Wilcox, Hinsdale County Assessor and Registered Appraiser, was accepted by the Board as an expert in the field of real estate appraisal. Ms. Wilcox prepared Respondent's Exhibit 1 in valuing the subject property for tax year 2003.
7. Ms. Wilcox testified that the subject property consists of two mining claims, the 10.33-acre St. Louis Lode Claim and the 10.28-acre Bloomington Lode Claim, for a total of 20.61 acres. The subject property is located 13 miles west of Lake City on Hinsdale County Road 20.
8. Ms. Wilcox testified that the elevation of the subject property is approximately 10,000 feet and consists of two contiguous patented mining claims. Each mining claim is considered a separate building site; however, both claims are valued as one site. The claims lie end-to-end with about one-fourth of the Bloomington crossing County Road 20 into Henson Creek. The subject

property varies from gently sloping to steep with areas bare of trees and other areas heavily treed. The subject property has several excellent building sites with very good access from Hinsdale County Road 20. A small trailer is located on the subject property.

9. As shown on page 17 of Respondent's Exhibit 1, Ms. Wilcox testified that the market comparable sales ranged in price from \$18,000.00 to \$250,000.00 and in size from 4.945 to 20.00 acres. The sales price per acre ranged from \$2,333.00 to \$12,500.00. Based on the market approach, the indicated value of the subject property is \$60,000.00 or \$2,911.00 per acre for tax year 2003. There have been no sales of similar properties since 2001.

10. Ms. Wilcox testified that access to the subject property is considered seasonal, good to poor, by vehicle and by foot. Access to Comparable 1 is seasonal, good and by vehicle; access to Comparable 2 is seasonal, fair to poor, by foot only and needs a bridge built, access to Comparable 3 is seasonal, poor, and by foot only, and access to comparable 4 is seasonal, good to fair, and by four-wheel vehicle.

11. Ms. Wilcox testified regarding the photograph of the subject and the comparable sales contained in Respondent's Exhibit 1.

12. Ms. Wilcox testified that the 2003 actual value assigned to the subject property is \$44,370.00.

13. Under cross-examination, Ms. Wilcox testified that she does not consider the subject property to be in the avalanche zone. She visited the subject property in October 2003.

14. Under redirect, Ms. Moreland testified that she believes the subject property is in the avalanche zone.

CONCLUSIONS:

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

2. The Petitioners believe that the value of the subject property should not be any more than the value from the prior reappraisal. Based on the evidence and testimony, the Board believes that the subject property is valued correctly. The Respondent presented a well-documented appraisal of the subject property and made appropriate adjustments.

3. The Petitioners presented actual values of surrounding properties, which is the equalization approach. The Board is precluded by Colorado case law from using the equalization approach in valuing property. The Board is required by the Colorado Constitution and the Colorado Revised Statutes to value the subject property by using the market approach to value. The Board can look at the equalization approach only to validate the market approach value.

4. After careful consideration of all of the evidence and testimony presented, the Board

4. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$44,370.00.

ORDER:

The petition is denied.

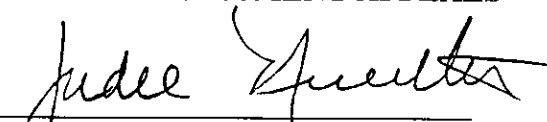
APPEAL:

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 20th day of April, 2004.

BOARD OF ASSESSMENT APPEALS



Judge Nuechter

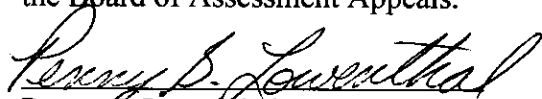


Diane M. DeVries

This decision was put on the record

APR 19 2004

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



Penny S. Lowenthal

