

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	
<hr/> Petitioner:  <b>JOHN C. CORBRIDGE,</b>  v.  Respondent:  <b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b>	
Attorney or Party Without Attorney for the Petitioner:  Name:                    John C. Corbridge Address:                9701 East Grand Avenue Greenwood Village, Colorado 80111 Phone Number:        (303) 770-6317	<b>Docket Number: 43154 and 44465</b>
<b>ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 1, 2005, Rebecca Hawkins and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Ms. Lily W. Oeffler, Esq. Petitioner is protesting the 2003 and 2004 actual value of the subject properties.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

**33696 Columbine Circle and 34076 Columbine Circle  
( County Schedule Nos. 1319399 and 040629)**

The subject property consists of two vacant lots known as Lot 11 and Lot 18 located in Section 7, Township 5, Range 71, County of Jefferson, Colorado. The subdivision is also known as Seger's Evergreen Acres.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the two vacant lots are situated on a steep mountainside and they should have no marketable value but instead should be valued at surface use. The lots are considered unbuildable.

### **Respondent:**

Respondent contends that the subject lots are steep and north facing and have been valued as unbuildable, although recent information indicates that one may be a buildable lot. Comparable sales will be presented that indicate the lots were valued correctly for tax years 2003 and 2004.

## **FINDINGS OF FACT:**

1. Mr. John Corbridge, Petitioner, presented the appeal on his own behalf.
2. Petitioner presented an indicated value of \$700.00 for each of the subject lots for tax years 2003 and 2004.
3. Petitioner did not present any comparable sales for this hearing.
4. Mr. Corbridge testified that the access road is private and on a hillside. The county does not maintain this road and during the winter there may be no access to the subject lots due to snow.
5. The Petitioner feels that the sizes of lot 11 and lot 18 have been overstated by the Respondent. There is no use to these lots and they are unbuildable. Petitioner's Exhibit 5 indicates there are no commercial uses allowed, no timber cutting and no dwellings allowed on less than 1 acre in Seger's Evergreen Acres. Mr. Corbridge feels there is no use for his property.
6. Mr. Corbridge testified that Petitioner's Exhibit 6A indicates the Respondent has established a class of unbuildable lots and has assigned a minimal value to those lots.
7. The Petitioner testified that the data collection period utilized by the Respondent is an issue at this hearing. He believes that the 18 month data collection period must be adhered to if comparable sales are available. The Respondent used a 24 month period although Mr. Corbridge indicated that there were a number of comparable sales within the 18 month period. The Petitioner also felt that the Respondent's comparable sales were far away and his neighborhood is not as desirable as the neighborhoods of the comparables.

8. Petitioner told the Board that the Respondent has indicated the subject lots could be used for assemblage or as a buffer with a garage. Mr. Corbridge testified that a detached garage without a dwelling is not allowed on the lots per the covenants for Rosedale Acres, which was subsequently subdivided as Seger's Evergreen Acres as indicated in Petitioner's Exhibit 19.

9. Petitioner's Exhibit 15 indicated 114 comparable sales provided by the Respondent in the valuation of the subject property. Mr. Corbridge testified that 32 of these sales were prior to the 18 month data collection period. Exhibit 17A indicates the Respondent's comparable sales are only 10 percent comparable since there was a 90 percent adjustment made to those sales that were considered buildable. Petitioner indicated Exhibit 17C was purchased by an adjacent homeowner for better access to her home since the lot was steep and unbuildable.

10. During cross-examination, Mr. Corbridge testified that lot 11 is over an acre in size and is not prohibited for building purposes by the covenants. He talked to the Jefferson County Department of Health approximately 18 months ago about installing a self-contained sewer treatment system on lot 11. Since that meeting, the Respondent's witness told Mr. Corbridge the process has changed and both a well and sewer treatment system would be allowed on lot 11, although Petitioner indicated he was not aware of the change.

11. Petitioner's Exhibit 12 indicated a residence was built on less than 1 acre. Petitioner indicated that the original plat of the subdivision indicated more acreage than 1 acre for that lot. Mr. Corbridge testified that he has not visited the lots since there was a new home built on lot 16 nor was he aware of a recent permit for a residence to be built on lot 8.

12. Petitioner is requesting a 2003 actual value of \$700.00 per lot and a 2004 actual value of \$700.00 per lot for the subject properties.

13. Respondent's witness, Mr. David D. Niles, a Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$6,100.00 for the lot 11 and an indicated value of \$4,810.00 for lot 18 for tax year 2003, based on the market approach.

14. Mr. Niles testified the subject lots are west of Evergreen on Upper Bear Creek Road, which is a desirable location and county maintained roadway. There are a wide range of values in the neighborhood ranging from cabins to million dollar dwellings. Seger's Road is a non-county maintained road .25 mile from the county road with sixteen full-time residences in the subdivision. All of the lots are on the north slope of the mountain with access difficult at certain times.

15. Respondent's witness testified that Respondent's Exhibit A, page 9 were photos taken of the subject properties and the access road in December, 2004.

16. Respondent's witness presented three comparable sales ranging in sales price from \$3,000.00 to \$60,500.00 and in size from .682 acres to 3.226 acres. After adjustments were made, the sales ranged from \$3,600.00 to \$6,260.00. All three comparable sales were from Seger's Evergreen Acres.

17. Mr. Niles testified that lot 11 is 1.05 acres and lot 18 is .740 acres in size.

18. Respondent's witness testified that the 90 percent adjustment applied to Sales 1 and 2 in the appraisal report were based on the appraiser reviewing 150 unbuildable lots that sold during the base period. He chose the comparable sales in his appraisal report since they were in the same subdivision as the subject lots and the other unbuildable lots were from all over Jefferson County and would have carried very little weight due to location. Sale 3 was smaller than the subject lots and considered an unbuildable lot that will be used for parking since the lot was purchased by an adjoining lot owner.

19. Mr. Niles testified that he met with Jefferson County Planning and Zoning and with the Jefferson County Health Department prior to this hearing. Planning and Zoning office indicated that Mr. Corbridge purchased lot 18 in order to make lot 11 buildable and lot 18 had an existing leach field when he bought the lot. A property merger agreement was required by the health department with 20 contiguous feet in place, which required an easement from both neighbors of lot 18, but neither would give permission. The health department has changed their opinion as to placing a well and a septic system on the same lot in Seger's Evergreen Acres. A reduction in distance between the well and septic was allowed as of July 4, 2003 so a well can be "deep grouted" from the existing leach field at an angle to the well head instead of the prior ruling that the well had to be 200 horizontal feet from the leach field. This would allow lot 11 to be a buildable lot.

20. Respondent's witness indicated that Jefferson County has been approved by the state auditor to use a 24 month data collection period for comparable sales. The time adjustment for 2003 was 1.2 percent per month while 2004 indicated a slowdown in sale prices with a .5 percent per month adjustment.

21. Respondent's witness testified that Petitioner owns  $\frac{1}{2}$  the mineral interest in the subject properties and that is common in Jefferson County. Mr. Edward Stanfield owns the other  $\frac{1}{2}$  interest of which he is taxed. Jefferson County values mineral interests at \$5.88 per acre based on mineral right sales.

22. During cross-examination, Respondent's witness was asked if a specific analysis of the limited access, the covenant restrictions for Rosedale Acres, road maintenance, or use was considered in his valuation. Mr. Niles testified he looked at other buildable lots in the same areas as well as unbuildable lots in Jefferson County that indicated a 90 percent difference in sale prices. Rosedale Acres covenants do not apply to Seger's Evergreen Acres anymore due to the re-plat. Mr. Niles feels that Petitioner could get a building permit even though it may be against the covenants since there are other dwellings on less than 1 acre in the subdivision. There are three other dwellings that currently border the subject lots.

23. Respondent assigned an actual value of \$5,580.00 to lot 11 and \$4,930.00 to lot 18 for tax year 2003. Respondent assigned an actual value of \$5,470.00 to lot 11 and \$4,810.00 to lot 18 for tax year 2004.

24. Petitioner presented rebuttal testimony indicating he was not aware of an existing

leach field on lot 18. He has unsuccessfully tried to join lot 11 as a contiguous site to lot 18. Lot 17 has changed the location of their septic system, which makes placing a well on lot 11 difficult. Condemnation is very expensive and he will not undertake this procedure. His neighbors do not want a structure on his lots but want open space.

25. Respondent showed to Petitioner a letter that Mr. Corbridge had sent to the Jefferson County Planning and Zoning Department which was contradictory to his testimony. In that letter Mr. Corbridge stated he purchased lot 18 due to the leach system with a map that showed the field and his plan for condemnation to join his two lots.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax years 2003 and 2004.

2. Petitioner did not present any evidence in support of his requested values, whereas the Respondent presented a well-documented appraisal report that supports the assigned values.

3. The Board notes that C.R.S. 39-1-104 (10.2) (d) provides that comparable sales be collected during an 18 month period prior to July 1 preceding the assessment date. That statute further provides that if available comparable valuation data is not sufficient, then comparable data may be used in 6 month increments up to five years. This Board has historically allowed a data collection period that included the 6 month period immediately prior to the 18 month period.

4. The Respondent has valued the two subject lots for tax years 2003 and 2004 as unbuildable although more recent information indicates one or both may be buildable lots and that a leach field exists on lot 18.

5. The Board agrees with the Respondent that an analysis of access, road maintenance and use was properly considered in the valuation of the subject lots.

6. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned values of \$5,580.00 for lot 11 and \$4,930.00 for lot 18 for tax year 2003. The Board also affirms Respondent's assigned values of \$5,470.00 for lot 11 and \$4,810.00 for lot 18 for tax year 2004.

## **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 25<sup>th</sup> day of February, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca Hawkins

*Judee Nuechter*

Judee Nuechter

This decision was put on the record

**FEB 23 2005**

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

*Diane M. Fechisin*

Diane M. Fechisin

