

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>JAMES A. MASON AND JESS MASON,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket Nos.: 45628 and 45629</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 10, 2006, MaryKay Kelley and Karen E. Hart presiding. Petitioners were represented by James A. Mason. Respondent was represented by Stephen Groome, Esq. Petitioners are protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

Docket No. 45628:

**115 Easterday Place, Lake George, Colorado (Lot 46)
Park County Schedule No. R0020721**

Docket No. 45629:

**120 Easterday Place, Lake George, Colorado (Lot 47)
Park County Schedule No. R0021562**

Each of the subject properties are one-acre lots of vacant land located in Tarryall River Estates.

FINDINGS OF FACT:

1. The subject properties are dissected by a river and have marshy areas of wetlands. The properties have large rock outcroppings, as well as pine and willow trees. The lots are subject to flooding during the spring runoff and during water releases from the Tarryall Reservoir. Petitioners have historically used the property for tent camping on the west side of the river, using the Tarryall dam access trail.

2. Only a small portion of the lots is accessible by Easterday Place. Western access is only available by driving over the Tarryall dam road and across neighboring lots 42, 43, 44, and 45. There were no access easements in place as of the assessment date to allow the use of the western access trail. Evidence was presented showing that the owners of Lots 42, 43, and 44 signed an easement agreement notarized on January 28, 2005, after the assessment date of January 1, 2005. There was no evidence to show that the owner of Lot 45 ever granted an easement.

3. Petitioners believe that the lots are not sellable until an easement over all the neighboring lots is obtained. They believe they may be able to sell the two lots together for \$20,000.00 to \$25,000.00, as the assemblage may provide enough room to build upon. The electric and phone services are on the other side of the river, but it may not be possible to extend them over the river. If the electricity has to come in from the western side along the dam, the cost may be prohibitive. It would be difficult to install a septic system due to the river, wetlands, and rock formations. All of these issues limit the ability to build on the subject properties. Petitioners believe it is only possible to build on the portion of the property located west of the river.

4. Petitioners presented three comparable sales ranging in sales price from \$5,000.00 to \$10,000.00 for similarly sized lots. Petitioners also presented a fourth sale which was seven acres in size and sold for \$10,000.00 per acre. No adjustments were made to the sales. Petitioners consider all of these comparables to be superior to the subject properties. As insufficient information regarding the physical characteristics and circumstances of these sales was presented, the Board placed little weight on Petitioners' comparable sales.

5. Petitioners are requesting a 2004 actual value of \$10,500.00 for Lot 46 and \$11,864.00 for Lot 47, the same value assigned to the properties in the previous tax year. By statute, the value of the subject properties must be determined based on market sales that occurred during the appropriate 18-month base period rather than on values assigned in a prior assessment cycle.

6. Respondent presented an indicated value of \$21,892.00 for each of the subject lots based on the market approach.

7. Respondent agrees that the subject property has little usable space but contends that with proper engineering, improvements could be constructed on the subject properties.

8. Respondent presented three comparable sales ranging in sales price from \$20,000.00 to \$34,900.00 and in size from .8 acres to 1.2 acres. After adjustments for time, size, access, topography, ground cover comparability and desirability were made, the sales ranged from \$19,670.00 to \$31,948.00. The comparable sales are located on the water's edge and have wetland

and septic issues similar to the subject properties.

9. The western access has been used by Petitioners since 1973, which gives some right by use. The market showed no distinction for lack of access versus difficult access. Respondent's witness, Ms. April Attaway, testified that she applied a negative 37% adjustment for access, a negative 18% adjustment for topography, and a positive 10% adjustment for tree cover. The adjustments shown on page 10 of Exhibits 1 and 2 are not consistent with Ms. Attaway's testimony.

10. Respondent assigned an actual value of \$21,892.00 to each of the subject properties for tax year 2005.

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2005.

2. Respondent's sales grid was recalculated using percentage adjustments consistent with Ms. Attaway's testimony. The resulting values ranged from \$16,967.00 to \$22,107.00.

3. Considering all of the deficiencies of the subject properties, the 2005 actual value of each lot should be reduced to \$16,970.00, the lower end of the range.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject properties to \$16,970.00 each.

The Park 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 26th day of September 2006.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Karen E Hart

Karen E. Hart

This decision was put on the record

SEP 26 2006

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

