

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 47989,
47990, & 47991**

Petitioners:

**BEN L. WRIGHT, JR. & PARK LAKE RESOURCES,
LLC**

v.

Respondent:

SUMMIT COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 3, 2008, Sondra W. Mercier and MaryKay Kelley presiding. Petitioners were represented by Maurice Reiber, agent for Ben L. Wright and part owner of Park Lake Resources, LLC. Respondent was represented by Frank Celico, Esq. Petitioners are protesting the 2007 actual values of the subject properties.

Docket Nos. 47989, 47990, and 47991 have been consolidated for purposes of this hearing.

PROPERTY DESCRIPTION:

The subject properties are described as follows:

<u>Owner</u>	<u>Docket No.</u>	<u>Schedule No.</u>	<u>Total Acres</u>
Ben L. Wright, Jr.	47989	2809455	2.840
Park Lake Resources, LLC	47990	2809201	17.310
Ben L. Wright, Jr.	47991	2809065	26.030

The subject properties are patented mining claims in steep inaccessible terrain over 11,000 feet. Some mines traverse the Summit/Park County border, and some can be accessed only in Park County. Classification is mineral. The mines are inactive and non-producing.

Respondent assigned actual values for the subject properties at \$220.00 per acre for tax year 2007. Petitioners are requesting actual values of \$50.00 per acre.

Mr. Reiber testified that the subject properties were purchased between 1998 and 2000 for \$90.00 to \$95.00 per acre, market price range due to the assumed risk.

Mr. Reiber stated that mining transactions are typically between private parties and tax sales via networking within the mining community. Quit claim deeds are typical. Partial-interest sales are not uncommon and have no effect on price per acre.

Mr. Reiber testified that the market approach requires a representative body of sales. Petitioners presented 42 transactions, providing a pattern of activity, with purchase dates from March 14, 2000 to March 31, 2008. Price per acre for the 35 non-tax deed sales ranged from \$42.55 to \$95.00 per acre; 22 of the sales being \$90.00 per acre or above.

Three of the above-mentioned sales occurred within the extended base period (7/1/01 to 6/30/06), and a fourth was under contract at the end of the base period. The following prices per acre, per Petitioners, represent the potential for ore, not vacant land purchased for development and not for density right transfers.

<u>Sch. No.</u>	<u>County</u>	<u>Prop. Name</u>	<u>Acres</u>	<u>Purch. Dt.</u>	<u>Sales Price</u>	<u>Pice/Acre</u>
90075	Park Co.	Macedonia	5.630 acres	08/06/06	\$ 535.52	\$95.00
10041901	Park/Lake	London Ext.	28.050 acres	06/07/04	\$2,660.00	\$94.83
10000363	Park/Lake	Fairview	10.000 acres	01/05/02	\$ 750.00	\$75.00
10104803	Park/Lake	Robison	8.053 acres	11/19/01	\$ 644.24	\$80.00

Petitioners are requesting an actual value for the subject properties of \$50.00 per acre, which addresses elevation in above tree line terrain, steepness, adverse weather, inaccessibility, and the potential for ore without knowledge of its presence or absence.

Respondent considers quit claim and tax sale deeds unreliable, and partial ownerships misleading.

Respondent presented nine sales ranging in price per acre from \$213.00 to \$5,324.00 and in size from 2.381 to 23.45 acres. All exceeded 11,000 feet in elevation and had either no access or 4-wheel drive access. Value was reconciled at the lower end of the range or \$220.00 per acre.

Respondent described backcountry zoning, which was adopted “with the intent to ‘retain the relatively undeveloped character of backcountry area . . . while allowing for very low-impact development’” It allows mining subject to permit and development of a mining claim for residential purposes by transferring density rights from backcountry sites to sites in valley floors where infrastructure is already in place to support residential use. Respondent confirmed that the two Summit County sales were purchased for transfer of density rights.

Petitioners presented sufficient probative evidence and testimony to prove that the tax year 2007 valuation of the subject property was incorrect.

The Board finds that the marketplace for mining properties is limited, that Petitioners' private negotiations and tax lien sales are common in this submarket and cannot be excluded from consideration. The Board was not convinced that Respondent's sales did not include potential future development or the availability of transfer for density rights. Petitioners' twenty sales at or above \$90.00 per acre are given most weight.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$95.00 per acre.

<u>Docket No.</u>	<u>Schedule No.</u>	<u>Acres</u>	<u>2007 Actual Value</u>
47989	2809455	2.840	\$ 269.80
47990	2809201	17.310	\$1,644.45
47991	2809065	26.030	\$2,472.85

ORDER:

Respondent is ordered to reduce the 2007 actual value of Schedule No. 2809455 to \$269.80, Schedule No. 2809201 to \$1,644.45, and Schedule No. 2809065 to \$2,472.85.

The Summit County Assessor is directed to change her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 17th day of June 2008.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

JUN 17 2008

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

Heather Heinlein
Heather Heinlein

