

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PAULETTE GIARRATANA & ARTHUR A. CHAYKIN,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48138</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 17, 2008, Karen E. Hart and Lyle D. Hansen presiding. Arthur A. Chaykin appeared pro se for Petitioners. Respondent was represented by Anthony DiCola, Esq. Petitioners are protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 1-46, The Fairways at Pole Creek
Tabernash, Colorado
Grand County Schedule No. R076046**

The subject is a 2.054-acre, unimproved, single-family, residential lot.

Mr. Chaykin testified that the Grand County Assessor ignored comparable lot sales in the same subdivision filing as the subject and that the Assessor failed to account for the subject location as being adjacent to a residential subdivision under the administration of a different homeowner association resulting in a diminution of value on the subject lot.

Petitioners presented an indicated value of \$150,000.00 for the subject property.

Petitioners presented no appraisal in support of their value conclusion. Petitioners presented lot numbers and sale prices from six comparable sales, all located within the same subdivision filing as the subject lot. Petitioners' "Brief in Support of Petitioner's Case" indicates that the sales were obtained from the County's website and sold during the relevant time period. Petitioners' comparable sales ranged in sales price from \$109,900.00 to \$275,000.00 and in lot size from 2.005 to 2.036 acres. Petitioners applied a "Rate of Return Analysis" as displayed in Exhibit E and concluded a "highest reasonable valuation" of \$149,986.00.

Petitioners are requesting a 2007 actual value of \$150,000.00 for the subject property.

Respondent presented an indicated value of \$250,000.00 for the subject property based on the market approach.

Respondent initially presented a total of 29 sales from the subject subdivision. Through elimination of sales that had golf-course locations or spectacular views, Respondent narrowed the range of comparable sales to a total of five.

Respondent presented these five comparable sales ranging in sales price from \$220,000.00 to \$270,000.00 and in lot size from 2.005 to 2.491 acres. After adjustments were made, the sales ranged from \$238,995.00 to \$310,230.00.

Respondent concluded that there was no direct correlation between lot size and sale price of the comparable sales but that differences in price were attributable to location within the subdivision and site view. Respondent computed a mean adjusted sale price of \$265,288.00 and a median adjusted sale price of \$257,990.00.

Respondent assigned an actual value of \$250,000.00 to the subject property for tax year 2007.

Respondent reviewed the six comparable sales as presented by Petitioners. Respondent indicated that Sales 1 and 2 were negatively impacted by location on County Road 5 which experiences numerous commercial trucks. Furthermore, a commercial heating/sheet metal fabrication facility is located immediately across the road with a log pole yard/saw mill located to the north. Respondent did not consider Sales 3 or 6 because of their superior location on the golf course. The remaining two comparable sales, Sales 4 and 5, are the same as Respondent's Sales 5 and 3. These two sales had a sales price of \$235,000.00 and ranged in size from 2.005 to 2.008 acres. After adjustments, the sales prices ranged from \$238,995.00 to \$263,200.00.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007.

Mr. Chaykin applied a "Rate of Return Analysis" to support his value conclusion. Colorado statutes require vacant lots be valued by application of the cost, market, and income approaches to value. Therefore, the Board gives little weight to Petitioners' concluded value.

The Board agrees with Respondent's value conclusion of \$250,000.00. The Board agrees with Respondent's adjustments and analysis of Petitioners' six comparable sales. The adjusted sales prices of Respondent's comparable sales support Respondent's concluded value.

The Board received Petitioners' Post Hearing Motion Or, In The Alternative, Motion To Reopen Hearing Regarding Particular Matters on November 25, 2008. The Board received Respondent's Response In Opposition To Petitioner's Post Hearing Motion And Motion To Reopen The Hearing on December 3, 2008. The Board received Petitioners' Reply and Partial Withdrawal of Post-Hearing Motion on December 15, 2008. The Board denies Petitioners' request to admit additional evidence listed in paragraph "A" of Petitioners' Motion.

ORDER:

The petition is denied.

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 CRS § 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 § 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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 18th day of December 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Lyle D. Hansen
Lyle D. Hansen

This decision was put on the record

DEC 18 2008

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

Heather Flannery
Heather Flannery

