

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN A. GEARTY,</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48180</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 24, 2008, MaryKay Kelley and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Rebekah King, Esq. appearing by telephone. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**44 Skunk Creek Road
Lot 33, Telluride Ski Ranches
(San Miguel County Schedule No. R1030008615)**

The subject property is 1.02 acres of vacant land located in Telluride Ski Ranches. It is a triangular-shaped lot with roads on two sides. Petitioner presented a wetlands survey presented by Foley Associates indicating approximately 40% of the subject property in wetlands.

Petitioner presented San Miguel County Land Use Code which states:

5-2201 C. I. "Buffer Zone" shall mean all areas where development could impact wetlands areas, extending at least 100 feet around wetland areas.

5-2203 A. Administrative Review

No Development activity shall be allowed within any Wetland or Buffer Zone without a Wetland Special Use Permit issued in compliance with the terms of this section.

5-2203 B. Two-Step Special Use Permit Review

A potential developer desiring to develop within a wetland or within 100 feet of a wetland must submit an application for approval for such activity

The subject property has been up for sale for six years for list prices from \$350,000.00 to \$425,000.00 and has never had an offer that lasted longer than a week due to the development issue of the subject.

Petitioner is requesting a 2007 actual value of \$365,000.00 for the subject property.

Respondent presented an indicated value of \$500,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$390,000.00 to \$695,000.00 and in size from 1.23 to 2.24 acres. After adjustments were made, the sales ranged from \$375,250.00 to \$600,250.00. A \$20,000.00 adjustment was applied to all comparable sales to reflect the cost to cure the wetlands issue.

Respondent called Michael Rozycki, San Miguel County Land Use Director. He confirmed the land use regulations and the impact of the survey presented by Petitioner.

Respondent assigned an actual value of \$456,000.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007. The building envelope is greatly reduced due to the wetlands and the buffer zone; therefore, significant adjustments are required in the sales comparison approach. Respondent's appraisal did not adequately address the impact of the wetlands. The Board is placing the actual value on the low end of the range indicated by Respondent.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$375,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$375,000.00.

The San Miguel 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.

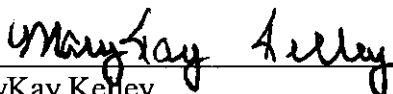
Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 22nd day of May 2008.

BOARD OF ASSESSMENT APPEALS


This decision was put on the record

MAY 22 2008


MaryKay Kehey

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


Diane M. DeVries


Heather Heinlein

