

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JAMES W. HOLTHAUS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48246</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 3, 2008, MaryKay Kelley and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Frank Celico, Esq. Petitioner is protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**44 Bryce Estates Road, Blue River, Colorado  
(Summit County Schedule No. 2803277)**

The subject property consists of a contemporary design house built in 2004 on a 1.69-acre site. There are four bedrooms, four bathrooms, and a two-car garage. According to Exhibit 1, the subject interior includes a steam shower and spa tub in the main bedroom suite, large deck areas, slab granite counters throughout, hardwood flooring in the main level, vaulted ceilings, travertine and tiled flooring, upgraded appliances, and good quality cabinets. Petitioner classifies the house as good quality. Respondent classifies the house as very good quality. There is an insignificant difference in square footage: 4,359 versus 4,344 square feet.

Petitioner testified that the subject property has minimal landscaping and a plain deck. The interior has stock railings, pine doors, and off-the-shelf hardware. There are granite countertops but no granite backsplash. Mr. Holthaus admits the house is a semi-custom design but does not believe it is very good quality; it is not a “palace.”

Based on the market approach, Petitioner presented an indicated value of \$1,290,000.00 for the subject property.

Petitioner's witness, Robert H. Ebert, a Certified Residential Appraiser with Ebert Appraisal Service presented nine comparable sales ranging in sales price from \$936,000.00 to \$1,300,000.00 and in size from 3,525 to 4,508 square feet. After adjustments were made, the sales ranged from \$950,100.00 to \$1,298,300.00. Comparable Sales 1 and 3 are located in the immediate area of the subject. Comparable Sale 9 is located south of the subject property but still in the Blue River area. The remaining comparables are all located at a similar distance north of the Town of Breckenridge as the subject property is south and they have similar amenities, land values, and marketing area as the subject.

Mr. Ebert testified that he considered all three approaches to value but depended on the market approach. He looked for similar quality home sales in a similar area; he does not believe the subject property is unique. Comparable Sale 1 occurred 30 days from the assessment date yet Respondent did not use this sale.

Regarding Respondent's comparable sales, Mr. Ebert noted that Sales 1 is located some distance away in Silverthorne, a different marketing area, and that Sales 2 and 3 are in close proximity to the subject but there are other factors to consider. The subject property is heavily treed and has a limited view. All of Respondent's sales are in a better view corridor. Comparable 1 has phenomenal views and Comparable Sales 2 and 3 have big views as well. He believes most buyers want a view component; few want a "cabin in the woods."

Petitioner is requesting a 2007 actual value of \$1,290,000.00 for the subject property.

Respondent presented an indicated value of \$1,454,753.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$1,300,000.00 to \$1,700,000.00 and in size from 3,593 to 4,699 square feet. After adjustments were made, the sales ranged from \$1,427,854.00 to \$1,774,367.00.

Respondent's witness, Dana Marie Chace, a Certified Residential Appraiser with Summit County testified that she inspected both the interior and exterior of the subject, which has many features above a "good grade" classification. It fits "very good grade" construction criteria based on its architectural design, split levels of floors, interior angles, multiple roof lines, exterior rock work, custom windows, vaulted ceilings, large exposed beams, hickory floors, and other upgraded interior finishes.

Ms. Chace testified that she had to look outside the Town of Blue River to find comparable sales. She reviewed 88 sales of very good quality homes, reduced the considered sales to 30 that had similar acreage as the subject and then removed 25 additional sales that were located within incorporated towns with city amenities. She chose three of the remaining five sales for her analysis, based on square footage, finishes, and land size. Lot size is an important market factor in Summit County. Comparables Sales 2 and 3 are smaller in acreage than the subject; Comparable Sale 1 is

larger than the subject. The sales were adjusted in the land component for size, location and proximity to open space, views, and topography.

Regarding Petitioner's sales, Ms. Chace inspected all of Petitioner's comparable sale properties. Comparable Sales 3, 5, 6, and 7 are older sales and were not adjusted for market conditions. Comparable Sales 1 through 8 are lower quality homes than the subject. Ms. Chace further testified regarding each of Petitioner's comparable sale properties. Petitioner's Comparable 1 is near the subject in the same neighborhood but is of log construction, has stock windows, minimal cabinets, and is graded good quality with a good quality interior. Comparable 2 was a foreclosure sale and sold at 35% below value; it had water damage. Comparable 3 is near the subject in the same neighborhood but is graded good quality. Comparable 4 is 13 years older than the subject, smaller in size, has a simple galley kitchen, and is graded good quality. Comparable 5 is a good quality construction and is a large rectangular design. Comparable 6 is 859 square feet smaller than the subject and is good quality. Comparable 7 has no basement, basic trim, and a galley kitchen. Comparable 8 is 9 years older than the subject and is a good construction house. Comparable 9 is a very good construction home but is 1,164 square feet larger on the first floor than the subject, is overall 604 square feet smaller than the subject, has no basement, has some superior interior features, has a creek on it, and has a superior view; it is overall superior to the subject.

Respondent assigned an actual value of \$1,655,859.00 to the subject property for tax year 2007 but is recommending a reduced value of \$1,454,753.00.

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

Both parties submitted thorough appraisal reports but disagree in the construction classification of the subject property. The Board has reviewed the subject property's construction characteristics and has determined that the subject property fits the category of a high-end, good quality construction house.

The Board gave lesser weight to Respondent's sales as they have superior views and are a greater quality construction than the subject. The Board determined that Petitioner's Sales 1 and 9 are most similar to the subject property. These two sales occurred late in the data-gathering period and were therefore least affected by market conditions. Petitioner's Sales 1 and 9 bracket Mr. Ebert's value opinion of \$1,290,000.00.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$1,290,000.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$1,290,000.00.

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 23<sup>rd</sup> day of October 2008.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley  
MaryKay Kelley

Karen E Hart  
Karen E. Hart

This decision was put on the record

OCT 22 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

