

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>JEROLD A. &amp; ARNETTE SCHOUTEN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48273</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 4, 2008, MaryKay Kelley and Diane M. DeVries presiding. Jerold A. Schouten appeared pro se for Petitioners. Respondent was represented by Frank Celico, Esq. Petitioners are protesting the 2007 actual value of the subject property.

The Board incorporated all testimony from Docket No. 48272 into the hearing for this matter.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**535 Two Cabins Drive, Town of Silverthorne  
Lot 71, Eagles Nest Golf Course Sub #1  
(Summit County Schedule No. 6506189)**

The subject property consists of 0.5967 acres or 25,992 square feet. The subject site has public water, sewer, utilities, and paved access; sloping topography; and typical mountain views.

Respondent assigned a 2007 actual value of \$199,606.00, but is recommending a reduction to \$196,499.00. Petitioners are requesting a 2007 actual value of \$184,543.00.

Petitioners introduced an equalization argument but declined to proceed following objection by Respondent. “Our state constitution and statutes make clear that individual assessments are based upon a property’s actual value and that actual value may be determined using a market approach,

which considers sales of similar properties.” *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

Petitioners did not present any independent comparable sales, basing the requested value on a review of Respondent’s sales.

Mr. Schouten testified that the subject property is 11 to 12 feet above the street; access is difficult. Mr. Schouten further testified that Respondent’s Sale 1 has incredible views, double street access, and better buildability. Sales 2 and 3 have better views and driveways with easier accessibility. Petitioners contend that adjustments should be made for superior views and the subject’s difficult access.

Petitioners valued the subject property with reliance on Respondent’s Sale 3 plus additional adjustments for superior view and accessibility, using \$7.10 per square foot for 25,992 square feet for a total of \$184,543.00.

Respondent presented three comparable sales ranging in sales price from \$213,400.00 to \$221,500.00 and in size from 0.6104 to 0.6647 acre. After adjustments were made, the sales ranged from \$189,606.00 to \$198,167.00 or \$7.29 to \$7.56 per square foot. Value was reconciled to the median of \$7.56 per square foot for a total actual value of \$196,499.00. Respondent adjusted for time, size, and view.

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

The Board believed that an adjustment for access should have been made. The Board reconciled to the lower end of the range at \$7.29 per square foot, as it is more reflective of the 2007 actual value of the subject property.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$189,482.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$189,482.00.

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 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).

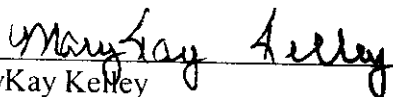
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

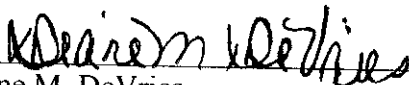
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 2<sup>nd</sup> day of December, 2008.

**BOARD OF ASSESSMENT APPEALS**


  
MaryKay Kelley

  
Diane M. DeVries

This decision was put on the record

**DEC 01 2008**

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

  
Heather Flannery

