

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JEROLD A. AND ARNETTE SCHOUTEN,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48274</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 5, 2008, Diane M. DeVries and MaryKay Kelley 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.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 5, Block 9 Reserve at Frisco #4 Phase 3
(Summit County Schedule No. 6502440)**

The subject property is a 0.241-acre (10,486 square feet) vacant, single-family site in the Reserve at Frisco, a 134-lot subdivision. The site is gently sloping, partially treed, and enjoys typical mountain views.

Respondent assigned an actual value of \$198,579.00 for the subject property but is recommending a reduction to \$192,103.00. Petitioners are requesting a value of \$154,548.00.

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.

Petitioners argued that the subject site has fewer trees than neighboring sites and that some will be removed due to pine beetle infestation and others because they are within the building envelope. Mr. Schouten suggested a 5% reduction to all comparable sales for this impact. The Board agrees that pine beetle mitigation has impacted all homes in the subdivision but is not convinced that the subject site has fewer trees than neighboring lots. Additional tree removal from the subject's building envelope will be required, but this is not unique to the subject site. The Board does not agree with a 5% application to comparable sales.

The subject site is located on the southern perimeter of the Reserve with an older subdivision directly across the street. Mr. Schouten testified that overall construction in the adjoining subdivision is inferior and there are neither covenants for architectural control nor restrictions on the presence of motor homes, boats, snowplows, etc. He suggested a 5% reduction for Sales 2 and 3 to reflect this difference but did not apply the adjustment to Sale 1, agreeing that it had been appropriately adjusted for proximity to I-70. The Board agrees with a 5% adjustment for location, noting that interior sites within the subdivision are not affected by the same visual influences that could affect marketability and value for the subject.

Petitioners considered Sale 3 to be superior because of its interior location and assigned it an additional 5% adjustment. The Board disagrees. Both Sales 2 and 3 are interior sites. No evidence supporting an adjustment was provided.

Petitioners' requested value of \$154,548.00 was based on the adjusted average of Sales 2 and 3, which he considered most similar to the subject. Respondent's indicated value on Sale 2 was adjusted by 10% to arrive at \$13.91 per square foot, and the indicated value on Sale 3 was adjusted by 15% to arrive at \$15.57 per square foot. The average of the two is \$14.74 per square foot.

Respondent presented an indicated value of \$192,103.00 for the subject property based on the market approach. Three comparable sales were presented, ranging in sales price from \$168,000.00 to \$175,000.00 and in size from 9,869 to 11,993 square feet or 0.2270 to 0.2750 acre. After adjustments were made, the sales ranged from \$162,027.00 to \$206,527.00 or \$15.45 to \$19.70 per square foot. Value was reconciled at the median of \$18.32 per square foot.

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

The Board finds that Sales 2 and 3 are most representative of the subject site. After adjusting both at 5% for the negative visual impact from the neighboring, older subdivision, adjusted prices per square foot are \$12.74 and \$17.30. The Board concludes to a value of \$16.00 per square foot.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$167,777.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$167,777.00.

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 2nd day of December, 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries

MaryKay Kelley
MaryKay Kelley

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
Heather Flannery

