

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THE CHERYL J. SIMON TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49281</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 14, 2008 Karen E. Hart and Debra A. Baumbach presiding. Petitioner was represented by Mark Simon. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**31081 Harkwood Run Trail, Golden, Colorado
(Jefferson County Schedule No. 126263)**

The subject property is a log construction, single-family residence originally built in 1979. In 1993 a room addition and remodel was done. The residence contains 2,421 square feet of above grade living area and consists of two bedrooms and three bathrooms. There is a wood stove, enclosed porch, barn, and attached garage. There is a walk-out basement area consisting of 728 square feet with some finish. The lot area consists of a 40-acre parcel.

Based on the market approach, Petitioner presented an indicated value of \$280,800.00 for the subject property.

Petitioner presented four comparable sales ranging in sales price from \$279,000.00 to \$500,000.00 and in square feet from 1,797 to 3,000. After adjustments the sales ranged from \$267,110.00 to \$326,615.00.

Petitioner believes the comparable sales he presented reflect similar physical characteristics to the subject and best reflect value ranges within the area. Adjustments were made for all differences based upon rough cost estimates. The adjustment for differences in acreage was based on the assessed land values of other similar properties.

Mr. Simon testified that Respondent utilized superior sales in the valuation process and did not consider the adverse conditions affecting the subject property. There have been no changes or updates to the property since the purchase in 1993. The subject is situated on a 40-acre parcel consisting of mostly rocky terrain, allowing only limited utility of the site. The access road is a privately maintained unpaved road and adverse weather conditions make travel difficult. It takes approximately 10 minutes to drive 2 miles and much longer if there are any changes in the weather. There are many times during snow periods when the only access in and out is by snow shoe.

Additionally, Petitioner contends there are other adverse conditions. The roof needs to be replaced and insulation is needed. Due to the lack of trees and shrubs, high winds in the area affect heating costs. There are numerous power outages and access to high speed internet is impossible. The barn is in poor condition and only used for dry storage and the other outbuildings have minimal function. The cost of repairs and to refinish the exterior is estimated to be \$19,800.00.

Mr. Simon testified that the well maintains poor water production, equating to approximately a quarter of a gallon per minute. The minimal output of water only allows for residential use. On several occasions there was insufficient water production to meet the residential needs and water had to be trucked to the property. Because of the lack of water production the possibility of any agricultural use of the land is impossible.

The subject is also adversely affected by the view of neighboring properties with numerous vehicles and equipment located throughout the properties.

Petitioner is requesting a 2007 actual value of \$280,800.00 for the subject property.

Respondent presented an indicated value of \$818,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$379,000.00 to \$650,000.00 and in size from 1,478 to 2,845 square feet. After adjustments the sales ranged from \$730,500.00 to \$887,700.00.

Ms. Vanessa Denbow, Certified Residential Appraiser with the Jefferson County Assessor's Office, testified the subject property is an average quality, log construction, single-family residence bounded on two sides by Jefferson County Open Space. The subject is located

in a mountainous community consisting of primarily residential and a few agricultural properties.

The county records show the subject was constructed in 1979 with an addition of a horse barn in 1985. Then in 1993 a second story addition was added. According to the property record information there have been no other permits.

The comparable sales chosen were considered to be the most similar to the subject in size, style, quality, acreage, and market appeal. All of the sales are located within the same market area and share similar external influences. Adjustments were made for all differences in physical characteristics and any other factors affecting the subject that the Assessor's office was aware of. Petitioner did not present any cost estimates for repairs during the base period.

Regarding Petitioner's comparable sales, two of the sales were modular homes and considered to be unsuitable for comparison to a stick built home and are affected by different market conditions. All of Petitioner's sales have smaller acreage and the adjustments were not supported by the market. Both parties utilized Respondent's Sale 2. Additionally Respondent adjusted Petitioner's sales for an indicated value of \$590,100.00. The assigned value is well below the indicated value, and is supported by the comparable sales used by both parties with adjustments from Respondent.

Respondent assigned an actual value of \$519,400.00 to the subject property for tax year 2007.

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

The Board found Respondent's sales to be the most comparable to the subject. The Board agrees with Respondent that modular home sales are a different market and reflect different market conditions. Therefore, the Board gave no weight to Petitioner's modular home sales. The Board gave minimal weight to Petitioner's adjustments as they were based on rough cost estimates and not market extraction. Also, Petitioner's acreage adjustment was based on the differences in assessed land values, not market extraction.

The Board was not convinced the indicated value presented by Respondent was well supported. Several of the adjustments were very aggressive and not supported in the market, and the final indicated value is well above any of the sales presented by both parties. The Board concluded that Respondent's Sale 1 is the most comparable and shares the most similarities with the subject; Respondent's Sale 1 supports the value assigned to the subject.

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 26th day of November 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Debra A Baumbach

Debra A. Baumbach

This decision was put on the record

NOV 26 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

