

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 50245

Petitioner:

CASTLE ROCK DEVELOPMENT COMPANY,

v.

Respondent:

**DOUGLAS COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 9, 2009, James R. Meurer and Lyle D. Hansen presiding. Petitioner was represented by Kendra L. Cohen, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is requesting an abatement/refund of taxes on the subject properties for tax years 2005 and 2006.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

**Meadows Subdivision, Castle Rock, Colorado
(Douglas County Schedule Numbers: See Addendum)**

The subject properties consist of privately held open space and common area parcels located in the Meadows Subdivision. There are a total of 56 parcels included for tax year 2005, and a total of 84 parcels included for tax year 2006.

Petitioner presented a value of \$250.00 per acre for the subject properties for both tax years 2005 and 2006.

Petitioner presented no appraisal and no comparable sales.

Petitioner's witness, Mr. Jim Riley, President of Castle Rock Development Company, testified that the subject open space parcels have no value because they are not developable, cannot be sold as separate parcels and therefore are not marketable. Mr. Riley testified that per Ordinance

No. 2003-18, which is an ordinance that approved the amended Meadows Development Preliminary P.D. Site Plan, the development is required to contain a minimum of private open space that is equal to 10% of the total acreage contained in the Neighborhood Use Areas B, C, D, E, and SM of the Meadows development. Because of the 10% requirement, the open space parcels cannot be developed and sold. Mr. Riley further testified that he is not aware of any open space sales.

Petitioner is requesting a 2005 actual value of \$21,270.00 for the subject properties and a 2006 actual value of \$26,291.00.

Respondent presented a value of \$5,000.00 per acre for the subject.

Respondent presented a Valuation Information and Analysis Report. The stated purpose of this report was to describe the process that the Douglas County Assessor's Office does to assign a value to subdivisions that are in their development stages. Specifically, the report described the approach to deriving values that are apportioned to privately held open space and common area parcels located in residential subdivisions that are to be dedicated as future open space within that developing subdivision. The Douglas County Assessor's Office, in deriving a value for ad valorem tax purposes, has a long-standing policy of applying a discount of 50% to the value of rural, un-entitled, un-subdivided, vacant, raw land to value the privately held open space parcels in Douglas County.

Respondent presented five comparable sales of rural, un-entitled, un-subdivided, vacant, raw land ranging in sales price from \$238,000.00 to \$800,000.00 and in size from 21.906 to 66.13 acres. After adjustments, the five sales ranged from \$10,597.00 to \$13,293.00 per acre. The Douglas County Assessor established a value of \$10,000.00 per acre and then discounted this value by 50% to \$5,000.00 per acre.

Respondent assigned an actual value of \$425,395.00 to the subject properties for tax year 2005 and assigned an actual value of \$525,815.00 for tax year 2006.

Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax years 2005 and 2006.

The Board concluded that the Douglas County Assessor's process for assigning value to privately held open space and common area parcels was proper in that the valuation process was founded in the marketplace through sales of rural, un-entitled, un-subdivided, vacant, raw land parcels in Douglas County, and therefore, gave weight to the value conclusion.

The Board concluded that the 50% discount was proper. While this percentage was an arbitrary conclusion, it resulted in recognizing a conservative value because of the difficulty in measuring the intrinsic value of the subject open space parcels. The Board agreed with Respondent that the open space parcels in the Meadows Subdivision possess intrinsic value to the rest of the platted lots in that they contribute to the marketability of the buildable lots in the subdivision.

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 Section 24-4-106(11), C.R.S. (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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (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).

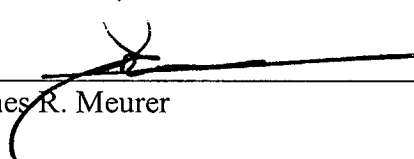
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

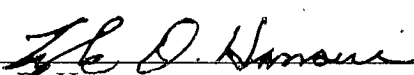
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.


DATED and MAILED this 5th day of November 2009.

BOARD OF ASSESSMENT APPEALS


James R. Meurer


Lyle D. Hansen

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


Heather Flannery

50245



ADDENDUM:

Douglas County Schedule Nos. Appealed for Tax Year 2005

Schedule No.	Acres	Respondent's Assigned Value	Schedule No.	Acres	Respondent's Assigned Value
0442275	1.185	\$5,925.00	0458209	0.196	\$980.00
0442276	0.282	\$1,410.00	0458330	6.55	\$32,750.00
0442346	1.782	\$8,910.00	0458472	0.772	\$3,860.00
0442358	0.206	\$1,030.00	0458489	4.384	\$21,920.00
0442370	0.111	\$555.00	0458504	2.345	\$11,725.00
0442380	0.178	\$890.00	0458506	0.681	\$3,405.00
0444769	6.675	\$33,375.00	0458518	0.988	\$4,940.00
0444823	0.857	\$4,285.00	0458527	0.477	\$2,385.00
0444933	6.632	\$33,160.00	0458535	0.064	\$320.00
0445059	2.38	\$11,900.00	0458543	0.149	\$745.00
0445076	2.554	\$12,770.00	0458603	2.003	\$10,015.00
0449347	2.195	\$10,975.00	0458637	0.367	\$1,835.00
0449379	1.539	\$7,695.00	0458651	0.727	\$3,635.00
0449380	0.049	\$245.00	0458664	1.635	\$8,175.00
0449381	1.002	\$5,010.00	0458671	0.33	\$1,650.00
0449395	9.031	\$45,155.00	0458682	0.099	\$495.00
0449435	0.09	\$450.00	0458700	0.198	\$990.00
0449436	0.282	\$1,410.00	0458722	0.671	\$3,355.00
0449520	4.662	\$23,310.00	0458733	1.038	\$5,190.00
0449590	3.054	\$15,270.00	0458762	2.133	\$10,665.00
0457869	0.995	\$4,975.00	0458808	0.755	\$3,775.00
0457890	0.057	\$285.00	0458826	2.66	\$13,300.00
0457955	0.092	\$460.00	0460188	1.789	\$8,945.00
0458028	0.832	\$4,160.00	0460595	0.467	\$2,335.00
0458039	1.755	\$8,775.00	0460602	0.219	\$1,095.00
0458045	0.063	\$315.00	0460603	0.178	\$890.00
0458059	0.081	\$405.00	0460612	3.338	\$16,690.00
0458084	1.152	\$5,760.00			
0458107	0.093	\$465.00			

Douglas County Schedule Nos. Appealed for Tax Year 2006

Schedule No.	Acres	Respondent's Assigned Value	Schedule No.	Acres	Respondent's Assigned Value
0442275	1.185	\$5,925.00	0458671	0.33	\$1,650.00
0442276	0.282	\$1,410.00	0458682	0.099	\$495.00
0442346	1.782	\$8,910.00	0458700	0.198	\$990.00
0442358	0.206	\$1,030.00	0458722	0.671	\$3,355.00
0442370	0.111	\$555.00	0458733	1.038	\$5,190.00
0442380	0.178	\$890.00	0458762	2.133	\$10,665.00
0444769	6.675	\$33,375.00	0458808	0.755	\$3,775.00
0444823	0.857	\$4,285.00	0458826	2.66	\$13,300.00
0444933	6.632	\$33,160.00	0460188	1.789	\$8,945.00
0445059	2.38	\$11,900.00	0460595	0.467	\$2,335.00
0445076	2.554	\$12,770.00	0460602	0.219	\$1,095.00
0449347	2.195	\$10,975.00	0460603	0.178	\$890.00
0449379	1.539	\$7,695.00	0460612	3.338	\$16,690.00
0449380	0.049	\$245.00	0460986	0.848	\$4,240.00
0449381	1.002	\$5,010.00	0460989	0.261	\$1,305.00
0449395	9.031	\$45,155.00	0460994	0.901	\$4,505.00
0449435	0.09	\$450.00	0461002	0.533	\$2,665.00
0449436	0.282	\$1,410.00	0461041	0.383	\$1,915.00
0449520	4.662	\$23,310.00	0461058	1.024	\$5,120.00
0449590	3.054	\$15,270.00	0461059	0.794	\$3,970.00
0457869	0.995	\$4,975.00	0461670	3.452	\$17,260.00
0457890	0.057	\$285.00	0461703	2.146	\$10,730.00
0457955	0.092	\$460.00	0461741	1.383	\$6,915.00
0458028	0.832	\$4,160.00	0461746	0.08	\$400.00
0458039	1.755	\$8,775.00	0461866	1.11	\$5,550.00
0458045	0.063	\$315.00	0461867	0.068	\$340.00
0458059	0.081	\$405.00	0461868	0.706	\$3,530.00
0458084	1.152	\$5,760.00	0461947	0.428	\$2,140.00
0458107	0.093	\$465.00	0462108	1.056	\$5,280.00
0458209	0.196	\$980.00	0462219	1.226	\$6,130.00
0458330	6.55	\$32,750.00	0462221	0.686	\$3,430.00
0458472	0.772	\$3,860.00	0462277	0.222	\$1,110.00
0458489	4.384	\$21,920.00	0462347	0.111	\$555.00
0458504	2.345	\$11,725.00	0462616	0.046	\$230.00
0458506	0.681	\$3,405.00	0462637	0.056	\$280.00
0458518	0.988	\$4,940.00	0462699	0.129	\$645.00
0458527	0.477	\$2,385.00	0462717	0.347	\$1,735.00
0458535	0.064	\$320.00	0462739	1.191	\$5,955.00
0458543	0.149	\$745.00	0462874	0.366	\$1,830.00
0458603	2.003	\$10,015.00	0462924	0.135	\$675.00
0458637	0.367	\$1,835.00	0466943	0.396	\$1,980.00
0458651	0.727	\$3,635.00			
0458664	1.635	\$8,175.00			