

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

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**Docket No.: 50533**

Petitioner:

**BLACK DIAMOND PARK LLC,**

v.

Respondent:

**HUERFANO COUNTY BOARD OF  
COMMISSIONERS.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on July 21, 2010 James R. Meurer and Lyle D. Hansen presiding. Petitioner was represented by Erich Schwiesow, Esq. Respondent was represented by Garrett Sheldon, Esq. Petitioner is requesting an abatement/refund of taxes on the subject properties for tax year 2007.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

**Black Diamond Park Subdivision, Walsenburg, CO**

Schedule No.	Assigned Value	Schedule No.	Assigned Value	Schedule No.	Assigned Value
163002	\$33,203.00	163053	\$33,203.00	163115	\$30,883.00
163003	\$33,203.00	163054	\$29,334.00	163118	\$30,548.00
163005	\$33,203.00	163055	\$33,203.00	163119	\$30,883.00
163007	\$33,203.00	163056	\$33,203.00	163122	\$30,883.00
163008	\$33,203.00	163057	\$33,203.00	163123	\$30,883.00
163009	\$33,203.00	163058	\$33,203.00	163124	\$33,203.00
163011	\$33,203.00	163059	\$33,203.00	163125	\$34,090.00
163012	\$33,203.00	163060	\$33,203.00	163126	\$29,334.00
163013	\$27,007.00	163062	\$33,203.00	163132	\$30,883.00
163014	\$33,203.00	163068	\$30,883.00	163133	\$30,883.00
163020	\$30,883.00	163075	\$33,203.00	163135	\$33,203.00
163024	\$30,883.00	163076	\$30,883.00	163136	\$33,203.00
163025	\$30,883.00	163082	\$33,203.00	163139	\$30,883.00
163026	\$30,883.00	163083	\$33,203.00	163141	\$33,203.00
163027	\$33,203.00	163084	\$33,203.00	163143	\$33,203.00
163029	\$29,334.00	163086	\$33,203.00	163144	\$33,203.00
163033	\$33,203.00	163087	\$33,203.00	163145	\$33,203.00
163034	\$33,203.00	163094	\$33,203.00	163146	\$30,883.00
163035	\$33,203.00	163097	\$34,090.00	163147	\$30,883.00
163036	\$33,203.00	163098	\$33,203.00	163148	\$30,883.00
163037	\$33,203.00	163099	\$30,883.00	163149	\$30,107.00
163038	\$33,203.00	163100	\$30,883.00	163150	\$30,883.00
163039	\$33,203.00	163102	\$30,883.00	163151	\$30,883.00
163041	\$30,883.00	163103	\$33,203.00	163152	\$30,883.00
163042	\$30,883.00	163104	\$33,203.00	163153	\$30,883.00
163043	\$30,883.00	163105	\$33,203.00	163154	\$33,203.00
163044	\$35,417.00	163106	\$30,883.00	163155	\$33,203.00
163048	\$38,428.00	163107	\$30,883.00	163157	\$30,993.00
163050	\$33,203.00	163108	\$30,883.00	163162	\$33,203.00
163051	\$33,203.00	163109	\$30,883.00	163163	\$33,203.00
163052	\$29,334.00	163112	\$29,334.00	163164	\$33,203.00

The subject properties consists of a total of 93 single-family residential lots situated in the Black Diamond Park residential subdivision which contains a total of 161 residential lots situated on 8 blocks. Sixteen of the lots have golf course adjacency and are situated on the west side of the subdivision and next to the Lathrop State Park and the Walsenburg Public Golf Course. The subdivision is a gated community and is serviced by Walsenburg water. The subdivision has public access from U. S. Highway 160. The 93 subject lots are located throughout the residential subdivision

Petitioner contends that the subject properties should be valued using present worth discounting for vacant land and that they have grounds for protest in three areas: the adjusted selling price per lot, the absorption period, and the discount rate. The adjusted selling price per lot concluded by Petitioner was \$44,250.00 as opposed to the Huerfano County Assessor's conclusion of \$64,781.00. The absorption period concluded by Petitioner was seven years as opposed to the Huerfano County Assessor's conclusion of three years. The discount rate concluded by the Petitioner was 12% as opposed to the Huerfano County Assessor's conclusion of 11.1%. However, Petitioner used Respondent's discount rate of 11.1% to derive their opinion of the discounted present worth value of an individual lot.

Respondent also contends that present worth valuation for subject lots is the issue in this matter.

Petitioner presented an adjusted selling price of \$44,250.00 per lot. Petitioner concluded a discounted value of \$15,171.00 per lot for the subject property based upon an absorption period of 7 years and a discount rate of 11.1%.

Petitioner presented 44 comparable lot sales ranging in sales price from \$33,900.00 to \$69,900.00. All 44 comparable lot sales were located in the Black Diamond Park subdivision. Since lot location, size, and access were comparable, no adjustments were made to the sale prices. Both individual lot sales and bulk lot sales were included in Petitioner's data base.

Petitioner's witness testified that Alan L. Williams, a Colorado State Certified General Appraiser had accomplished an appraisal on the Black Diamond Park Subdivision and had concluded a mean sale price of the lots sold between January 1, 2005 and June 30, 2006 of \$44,240.00.

Petitioner is requesting the 2007 actual discounted average value for the subject lots be reduced to \$15,171.00.

Respondent presented an adjusted selling price of \$64,781.00 per lot and a discounted value \$51,824.81 per lot for the subject properties.

Respondent's appraiser, Mr. Nelson Holmes, testified that he used the Huerfano County Assessor's data base for residential lot sales to derive the adjusted selling price for the individual lot value for the subject. Mr. Nelson provided no specific information on lot sales data and made no adjustments. He concluded a value for an individual lot of \$64,781.00 that included a deduction of \$1,719.00 for un-incurred direct development costs.

Respondent's appraiser testified that he included bulk lot sales in his derivation of an absorption rate of three years. He testified that all of the included lot sales were of an individual deed transfer and, therefore, did not exclude bulk sales. He testified that a sale was not considered to be a bulk sale if the lots transferred separately by deed.

Respondent assigned various actual values to the subject lots for tax year 2007, as listed above.

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

The Board placed greater reliability upon Petitioner's comparable sales to derive the value of an individual lot. The Board utilized 15 individual lot sales that were all located in the subject subdivision and sold between 5/15/2005 and 12/8/2005. Based upon these 15 individual lot sales, the Board agreed with Petitioner's individual lot value of \$44,250.00.

The Board concluded that the 44 comparable lot sales presented by Petitioner should be used in the absorption analysis. All of the sales were sold by Petitioner and are no longer part of the developer's inventory. The Board concludes to an absorption period of 4 years.

The Board agreed with Petitioner's value conclusions on the lots included in this petition. The Board concluded that using individual lot sales to support individual lot value would be more appropriate than Respondent's use of bulk lot sales to derive the value of an individual lot. Both Petitioner and Respondent agreed upon a discount rate of 11.1%. The Board recalculated the present worth for the subject lots using an absorption period of 4 years concluding to a discounted lot value of \$26,550.00.

The Board concluded that the 2007 base value for an average discounted lot in the subject's subdivision should be \$26,550.00. The Board then issued an Order Retaining Jurisdiction on October 13, 2010, ordering Respondent to provide the Board with values for each of the subject lots using the Board's concluded based value for an average lot within the subdivision of \$26,550.00.

**ORDER:**

Pursuant to the values providing by Respondent, Respondent is ordered to reduce the 2007 actual value of the subject property in accordance with the following table:

Schedule No.	Assigned Value
163002	\$26,550.00
163003	\$26,550.00
163005	\$26,550.00
163007	\$26,550.00
163008	\$26,550.00
163009	\$26,550.00
163011	\$26,550.00
163012	\$26,550.00
163013	\$21,596.00
163014	\$26,550.00
163020	\$24,695.00
163024	\$24,695.00
163025	\$24,695.00
163026	\$24,695.00
163027	\$26,550.00
163029	\$23456.00
163033	\$26,550.00
163034	\$26,550.00
163035	\$26,550.00
163036	\$26,550.00
163037	\$26,550.00
163038	\$26,550.00
163039	\$26,550.00
163041	\$24,695.00
163042	\$24,695.00
163043	\$24,695.00
163044	\$28,320.00
163048	\$30,278.00
163050	\$26,550.00
163051	\$26,550.00
163052	\$23456.00

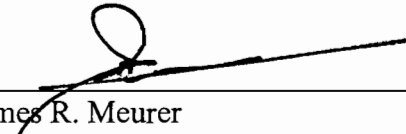
Schedule No.	Assigned Value
163053	\$26,550.00
163054	\$23456.00
163055	\$26,550.00
163056	\$26,550.00
163057	\$26,550.00
163058	\$26,550.00
163059	\$26,550.00
163060	\$26,550.00
163062	\$26,550.00
163068	\$24,695.00
163075	\$26,550.00
163076	\$24,695.00
163082	\$26,550.00
163083	\$26,550.00
163084	\$26,550.00
163086	\$26,550.00
163087	\$26,550.00
163094	\$26,550.00
163097	\$27,259.00
163098	\$26,550.00
163099	\$24,695.00
163100	\$24,695.00
163102	\$24,695.00
163103	\$26,550.00
163104	\$26,550.00
163105	\$26,550.00
163106	\$24,695.00
163107	\$24,695.00
163108	\$24,695.00
163109	\$24,695.00
163112	\$23456.00

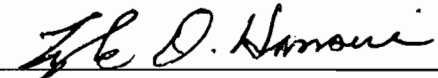
Schedule No.	Assigned Value
163115	\$24,695.00
163118	\$24,427.00
163119	\$24,695.00
163122	\$24,695.00
163123	\$24,695.00
163124	\$26,550.00
163125	\$27,259.00
163126	\$23456.00
163132	\$24,695.00
163133	\$24,695.00
163135	\$26,550.00
163136	\$26,550.00
163139	\$24,695.00
163141	\$26,550.00
163143	\$26,550.00
163144	\$26,550.00
163145	\$26,550.00
163146	\$24,695.00
163147	\$24,695.00
163148	\$24,695.00
163149	\$24,074.00
163150	\$24,695.00
163151	\$24,695.00
163152	\$24,695.00
163153	\$24,695.00
163154	\$26,550.00
163155	\$26,550.00
163157	\$24,783.00
163162	\$26,550.00
163163	\$26,550.00
163164	\$26,550.00

The Huerfano County Assessor is directed to change his/her records accordingly.

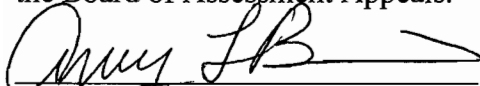
DATED and MAILED this 5 day of November 2010.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_  
James R. Meurer

  
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Lyle D. Hansen

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

  
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Amy Bruins

