

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CARLE A. LINKE,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51681</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 16, 2010, Sondra W. Mercier and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Jennifer A. Davis, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**32701 Columbia Ranch Road, Buena Vista, Colorado
Chaffee County Schedule No. R316326100144**

The subject property consists of a three acre vacant land parcel located in unincorporated Chaffee County. There is also a 33.3% interest in Lot 4, which is a 27.42 acre open space lot, and a 33.3% interest in Columbia Ranch Road, the private access road right of way. There is a well located on the property.

The subject property was previously part of a 40.59 acre tract that was developed in 2001 into three 3-acre buildable lots, an open space lot, and a private road right of way. The property was developed under the Rural Open Space Incentive (ROSI) development regulations, which allow cluster development. The associated open space parcel can be utilized for horse grazing by the lot owners. The lot owners have fenced the open space parcel into three pastures of equal size for each owner's use, but the designated areas are by informal agreement only. The covenants require all

three owners grant permission to any one owner for use of any portion of the open space. Petitioner describes the ROSI process as being similar to a conservation easement. The open space cannot be built upon. Respondent assigned no additional value to the open space or road right of way interests associated with the subject property.

Petitioner believes ROSI sales should be used to value the subject property but could not locate any ROSI that had sold.

Petitioner is requesting a 2009 actual value of \$57,611.08 for the subject property, based on an average of the assessment values of all ROSIs.

Respondent presented a value of \$125,000.00 for the subject property, based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$88,000.00 to \$149,000.00 and in size from 2.12 acres to 3.16 acres. After adjustments were made, the sales ranged from \$94,450.00 to \$162,404.00. All of the comparable sales had access to open space or common property use. Most weight was given to Sale 1 and Sale 3.

Respondent's witness, Dean C. Russell, a Registered Appraiser with the Chaffee County Assessor's office testified that values were increasing during the base period ending June 30, 2008 and all of the comparable sales were adjusted for time based on northern Chaffee County vacant land sale mass appraisal studies. These studies included all types of vacant land including properties located in incorporated and unincorporated areas with varying sizes, amenities, and locations.

Respondent assigned an actual value of \$125,000.00 to the subject property for tax year 2009.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

Petitioner provided no comparable sales for the Board to consider. The Board relied on Respondent's sales.

Comparable Sale 2 has access to superior amenities and is located in a gated community with upscale residential housing. It is unlikely that the subject property would attract the same type of buyers as this comparable. The Board finds that this property is not sufficiently similar to the subject property and should be given little weight.

Comparable Sale 1 is located in a larger development with more open space, some amenities through homeowner association dues, and has a central water system. Lot owners have access to a horse stable and pasture area. This property is superior to the subject property in amenities but is similar to the subject property in physical characteristics.

Comparable Sale 3 has difficult terrain with trees and steep rocks, a location near the Arkansas River, and similar open space acreage availability as the subject property. Although there

is a building site available, it is not recommended to be built upon due to a large portion of the property being located in a Rock Fall Hazard Zone. This property is similar in amenities but dissimilar in physical characteristics and is not horse property.

Though not ideal properties, the Board gives most reliance to Comparable Sale 1 and Comparable Sale 3.

The Board finds Respondent's adjustments are reasonable with the exception of the time adjustment. The Board is not convinced that a ROSI property such as the subject property can be time adjusted based on non ROSI property sales, including vacant land located in incorporated areas and having a variety of size, locations, and amenities. Therefore, the adjustment for time was removed. The adjusted values for Comparable Sale 1 and Comparable Sale 3 without time adjustments are \$88,000.00 and \$115,000.00 respectively. Giving equal weight to both sales, the Board concludes that the 2009 actual value of the subject property should be reduced to \$101,500.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$101,500.00.

The Chaffee 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 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 of the respondent county, 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).

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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 3rd day of October 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Karen E. Hart

Karen E. Hart

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

Amy Bruins

Amy Bruins

