

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>KAREN L. HOLLINGSWORTH &amp; ROBERT L. HOLLINGSWORTH II,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PARK COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 52302</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 28, 2010, Debra A. Baumbach and Louesa Maricle presiding. Petitioners appeared pro se. Respondent was represented by Marcus A. McAskin, Esq. Petitioners are protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**T15 R72 S26 SW4  
SW4SW4 26-15-72  
SE4SE4 27-15-72  
(Park County Schedule No. R0023856)**

The subject property is an 80-acre parcel of vacant land located southeast of Guffey, Colorado. The property has rolling topography, good views, partial grass and tree cover, and a spring that extends above ground for approximately 100 feet before moving back underground. There are no utilities to the property. Access was described as difficult because of a non-maintained road that requires a four-wheel drive vehicle and is often impassable in winter. The subject property has Agricultural zoning.

Petitioners contend that Respondent has relied on less comparable sales, some located far from the subject, and older sales that were adjusted for time (changing market conditions) rather than more recent sales located closer to the subject property. The difficult access and lack of utilities cause the property to be less desirable. Petitioners also contend that Respondent's methodology of averaging the sale prices of the comparables to derive a base value per acre that is then applied to the land area of each sale to compute a revised sale price is incorrect.

Using the market approach, Petitioners presented two comparable sales that occurred in 2006 with sale prices of \$27,500.00 and \$32,500.00. Both properties were 40 acres in size resulting in sale prices of \$687.50 and \$812.50 per acre. Petitioners also presented information about a property listing that was offered for sale during the base period. It was a 40-acre property owned by Petitioners that at an unspecified point in 2007 had been listed for 772 days at a price of \$31,500.00, or \$787.50 per acre. The property later sold, but outside the base period under consideration. Mr. Hollingsworth testified that the 2006 sales presented are located closer to the subject property and have the same access issues. Mr. Hollingsworth contends that time adjustments were not necessary because of the stagnant to declining market conditions during the base period. Petitioners made no adjustments to the sales and used a price per acre analysis to conclude to a value for the subject property of \$57,400.00.

Petitioners are requesting a 2009 actual value of \$57,400.00 for the subject property.

Ms. Lorie Bobilya, Data Collector/Staff Appraiser with the Park County Assessor's Office testified as a witness for Respondent. Ms. Bobilya presented four comparable sales to support the value assigned by Respondent using the market approach. The sales presented included one that occurred in May 2008, within the 18-month base period, one that took place in April 2006, and two sales that occurred in 2004. The properties ranged in size from 40 to 80 acres. The sale prices ranged from \$20,000.00 to \$105,000.00, which were equivalent to prices of \$500.00 to \$1,312.50 per acre. According to the witness, the properties were all located within the same economic area as the subject and had similar access issues.

After adjusting all the sale prices upward for improving market conditions during the extended base period, Ms. Bobilya calculated an average price per acre for the four sales and applied that average to the acreage for each property to produce a revised sale price before making adjustments for physical characteristics. Ms. Bobilya presented matched pair sales analyses to support adjustments for time (changing market conditions), access, tree cover, live water, and desirability. The witness also referenced multiple regression analysis in determining adjustments. After adjustments were made, the sales ranged from \$74,235.00 to \$99,896.00. The witness concluded that the adjusted sale prices supported the assigned value of \$81,594.00.

Respondent requested that the Board uphold the assigned value of \$81,594.00 for tax year 2009.

The Board notes that two of the paired sale sets presented by the witness to support a time adjustment were sales that all occurred in 2004 and 2005, more than 2½ years before the effective date of value and determined that they were not relevant to determining a change in market conditions up to June 30, 2008. Through Board questions and witness testimony, it was determined

that there were mathematical errors and inconsistencies in the percentage time adjustments presented by Respondent's witness. Therefore, the Board does not rely on the time adjustment analysis presented. Also, because Respondent's comparable sales included only one sale that occurred during the 18-month base period, the Board is not convinced that there was sufficient evidence provided to support improving market conditions.

The witness's methodology of calculating an average time adjusted sale price per acre based on the four comparable sales, and using that figure to derive a revised sale price for each of the four sales effectively allocates the different attributes of each among all the sales. In making subsequent adjustments to each sale for physical differences in comparison to the subject property, the Board concludes that the witness's adjustments may not be reliable because of the blending of the value of attributes reflected in the revised sale prices. Also, insufficient support was provided to convince the Board that the seven paired sale sets presented were alike in all respects except the characteristic being analyzed (tree cover, live water, et cetera).

Respondent contends that one of Petitioners' comparable sales was purchased by a buyer who was assembling a larger property and the second sale was involved in a 1031 Exchange. Therefore, Respondent contends that the sales were both affected by atypical buyer motivation and should not be considered. The Board agrees that the sale prices might have been affected under those conditions, but they could also have been market rate transactions. Respondent did not provide sufficient confirmation evidence to support the claim that the sale prices were adversely affected by atypical buyer motivation.

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

The Board determines that Respondent's adjustments to the comparable sales were not adequately supported. The actual sale prices presented by Respondent ranged from \$500.00 to \$1,312.50 per acre. Petitioners' requested value of \$57,400.00 is equivalent to \$717.50 per acre, within the range of Respondent's comparable sales.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$57,400.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$57,400.00.

The Park County Assessor is directed to change his/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 6<sup>th</sup> day of July 2010.

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach  
Debra A. Baumbach

Louesa Maricle  
Louesa Maricle

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

Heather Flannery  
Heather Flannery

