

<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>GLISSON FAMILY TRUST,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 52472</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 20, 2010, MaryKay Kelley and Debra A. Baumbach presiding. Petitioner was represented by Janice T. and Floyd Glisson, Trustees. Respondent was represented by Rebekah S. King, Esq. Petitioner is protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**180 Elk Run Road (Lot 12), Telluride, Colorado  
(San Miguel County Schedule No. R1040086012)**

The subject property is located in the Elk Run subdivision, a private gated community with 30 total lots. The streets are paved and maintained by the homeowners' association with all utilities available underground. The common amenities include hiking and riding trails, tennis courts and open space, all of which are complete. The site consists of 7.28 acres with a good building site. There is tree cover and the terrain moderately slopes from the road and becomes steeper to the rear.

Petitioner presented three comparable sales: Lot 19 (5 acres) selling for \$1,056,700.00 on January 3, 2007; Lot 27 (5.9 acres) selling for \$1,150,000.00 on June 7, 2007; and Lot 16 (6.77 acres) selling for \$1,600,000.00 on July 6, 2007. Lot 19's sale price did not include Realtor

commission, which calculates to an adjusted sales price of \$1,173,000.00. All comparable sales enjoy views of meadows, ponds, and Sunshine Peak, while the subject's views are inferior. No adjustments were made for any differences in view, location, size or topography. Petitioner only relied on two of the sales in the analysis as Lot 16 consisting of 6.77 acres, sold July 6, 2007 for \$1,600,000.00 and was considered to be superior and not suitable for comparison.

Petitioner contended the subject's actual value, which increased from \$1,200,000.00 (tax years 2007 and 2008) to \$1,380,000.00 (tax year 2009), is not supported. Similar properties saw no escalation, and insufficient comparable sales existed to support appreciating values.

Petitioner purchased the subject property on March 30, 2007 for \$1,200,000.00. Petitioner contended Respondent has overvalued the subject property by not considering the sale of the subject property during the base period or any adverse factors affecting the subject property. There were no sales that took place during the base period or extended base period and only several sales that occurred in 2007 including the subject property.

Petitioner contended the subject's lot was adversely influenced by steep terrain that physically and financially prohibits driveway construction from Elk Run Road, the main subdivision arterial, to the building site. The cost estimate is upwards of \$500,000.00.

Petitioner contended the alternate access to the subject's building site is a forest service road accessed via an easement. The dirt road is long, rutted, and passes an unsightly water treatment facility, which has two large water tanks and auxiliary equipment.

Petitioner requested an actual value for tax year 2009 between \$1,000,000.00 and \$1,200,000.00.

Respondent's witness, Mr. Tim R Mann, Certified Residential Appraiser with San Miguel County Assessor's office, presented an indicated value of \$1,380,000.00 based on the market approach.

Respondent presented the same three comparable sales as Petitioner and made qualitative adjustments for size, shape, terrain, trees and privacy, and a shared driveway. There were fewer sales during the base period, but values remained stable. Time adjustments were not applied because all sales occurred during the base period. The assigned value of each sale was presented with value conclusion supporting the subject's actual value.

Mr. Mann testified he inspected the subject property and the site offers a good building site for a residence to be constructed back from the street. The site is larger than what is typical for the area and has good tree coverage, allowing for adequate shade and privacy. The steep slope, common in the subdivision, was not considered to adversely affect value.

Mr. Mann testified that price per square foot and price per acre support his conclusion. Inclusion of the subject sale with Sales 1 and 3 results in a median adjusted sales price of \$1,120,000.00 and an average of \$1,600,000.00.

Respondent assigned a value of \$1,380,000.00 for tax year 2009 for the subject property.

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

The Board concludes that the sale of the subject property within the base period is the most reliable value conclusion. Neither evidence nor testimony was presented to suggest the sale was not an arm's-length transaction. There was insufficient evidence due to the lack of sales to support any appreciation in the market area or to support a higher value than Petitioner's purchase price. The Board agrees that differences in sales prices between the subject and three comparable sales were a result of physical characteristics, utility, and market appeal.

The Board is not convinced that due to the steep terrain and cost to construct a driveway a value lower than the purchase price is supported. Access to the site through the forest service road passing by the water treatment plant was in place at the time of the sale. There was no convincing evidence presented that the subject's purchase was in duress, or less than market value. There was no convincing evidence the sale was not arm's-length or there were sales concessions at the time of sale due to the utility of the site.

Therefore, the Board concludes that the 2009 actual value of the subject property be reduced to \$1,200,000.00

### **ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,200,000.00.

The San Miguel County Assessor's office 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 16<sup>th</sup> day of August 2010.

**BOARD OF ASSESSMENT APPEALS**

MaryKay Kelley  
MaryKay Kelley

Debra A. Baumbach  
Debra A. Baumbach

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

Heather Flannery  
Heather Flannery

