

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BEAR CREEK DEVELOPMENT CORPORATION,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 54268</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 26, 2010, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Martin E. McKinney, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Vacant Land, State Highway 74 & State Highway 8, Morrison, Colorado
Jefferson County Schedule No. 036928**

The subject property consists of an irregularly-shaped vacant lot containing a total of 10.010 acres. The lot is undeveloped and contains approximately one acre of a developable flat portion with the remaining nine acres comprised of a ravine and steep rock outcroppings. The parcel has public access from State Highway 74.

Petitioners are requesting an actual value of \$50,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$195,470.00 for the subject property for tax year 2009 but is recommending a reduction to \$135,135.00.

Petitioner’s appraiser, Mr. John F. DeRungs, appraised the subject under the highest and best use conclusion as a buildable single residential lot. He presented five comparable sales ranging in sale price from \$88,900.00 to \$260,000.00 and in size from 0.47 to 3.22 acres. The appraiser relied more heavily upon Sale 2 with a sale price of \$95,000.00 and Sale 3 with a sale price of \$88,900.00.

Mr. DeRungs gave weight to each sale: 33% for Sale 2 and 67% to Sale 3, resulting in an indicated value of \$90,000.00.

Mr. DeRungs testified that the buildable portion of the parcel is approximately one acre and that the site has steep terrain, a ravine on the west side of the parcel and rock outcroppings. He testified that a sewer line and easement passes along the west edge of the parcel with an easement width of approximately 15 feet. Mr. DeRungs testified that the parcel has all utilities available to it, but a water pump station would be necessary to get water to the subject. He testified that the subject is located in the town of Morrison. He testified that in selecting comparable sales he considered location near mountain communities, parcel topography, the availability of water and road access. He testified that his comparable sales have similar buildable area, and the undevelopable lot area has no contributory value.

Petitioner's witness, Mr. Jeffrey Bradley, the property owner, testified that the two-inch water line in the adjacent highway cannot be a water source for the subject and that getting water to the subject would be difficult. He testified that he has owned the parcel since 1920 and has never listed it for sale.

Petitioner is requesting a 2009 actual value of \$50,000.00 for the subject property.

Respondent presented a value of \$135,135.00 for the subject property based on the market approach.

Respondent's appraiser, Mr. David Niles, appraised the subject under the highest and best use conclusion as open space. He presented nine comparable sales ranging in sale price from \$390,000.00 to \$10,000,000.00 and in size from 28.18 to 730.92 acres. No adjustments were accomplished and Mr. Niles concluded a value at the median of the nine sales at \$135,235.00.

Mr. Niles testified that the town of Morrison has identified the subject classification as open space per the town's comprehensive plan designation. He further testified that Jefferson County Open Space program is aware of the subject site and has the parcel on their "wish list" for acquisition as open space. He testified that his opinion for providing water access to the subject could cost from \$100,000.00 to \$200,000.00.

Respondent assigned an actual value of \$195,470.00 to the subject property for tax year 2009 and is recommending a reduction to \$135,135.00.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value. The Board gave greater reliability to Respondent's highest and best use conclusion as open space. The Board concluded that the physical characteristics of the subject parcel with approximately 90% of undevelopable area consisting of rock outcroppings and ravine more appropriately identify the parcel as open space rather than a residential developable site. The parcel is classified as open space with the town of Morrison and that the Jefferson County Open Space program recognized the site as having potential for acquisition as open space. The Board relied upon Mr. Bradley's testimony that getting water to the parcel

would be difficult and upon Mr. Niles' testimony that the cost of getting water to the site would be prohibitive.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$135,135.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$135,135.00

The Jefferson County Assessor is directed to change their 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 5 day of November 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Lyle D. Hansen

Lyle D. Hansen

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

Amy Bruins

Amy Bruins

