

<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>JOHN E. GUSTAVE JR.,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARCHULETA COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 54672</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 4, 2010, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by Todd M. Starr, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**1316 Lakeside Drive, Pagosa Springs, Colorado  
Archuleta County Parcel No. 5699-191-44-008**

The subject property consists of an unimproved irregularly-shaped single-family residential lot containing a total of 1.59 acres. The lot is located in the Eaton Pagosa Estates subdivision.

Petitioner is requesting an actual value of \$225,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$287,500.00 for the subject property for tax year 2009.

Petitioner, Mr. John Gustave, presented nine comparable sales ranging in sale price from \$85,000.00 to \$297,000.00 and in size from 0.19 to 1.22 acres. Petitioner made no adjustments to the comparable sales but testified that the average sale price of the nine sales would be representative of the value for the subject. He testified that he obtained and confirmed the comparable sales from a real estate broker.

Mr. Gustave testified that his lot has lake frontage and that all nine sales have lake frontage. He testified that his lot has public access from a paved road and that water, sewer, gas and electricity are all available to the parcel. Mr. Gustave testified that the lot is generally level and that a sewer line easement passes through the lot. He testified that a single-family residence has been constructed on the adjacent Lot 30 and that the other adjacent lot is vacant. He testified that there is an access parcel between his lot and Lot 32 that provides public access to Lake Forest.

Petitioner is requesting a 2009 actual value of \$225,000.00 for the subject property.

Respondent presented a value of \$298,000.00 for the subject property based on the market approach.

Respondent's appraiser, Mr. Robert Randolph, presented three comparable sales ranging in sale price from \$287,500.00 to \$300,000.00 and in size from 0.75 to 1.22 acres. After adjustments were made, the sales ranged from \$297,500.00 to \$311,500.00. Mr. Randolph made adjustments for differences in lot location, acreage and topography.

Mr. Randolph testified that he checked with Archuleta County and with the subdivision developer concerning the sewer easement. Based upon their responses, Mr. Randolph testified that the sewer line easement does not impact the buildable area on the lot. He testified that the parcel has a good lake and mountain view. He testified that the public access parcel adjacent to the subject lot provides a walking path to a boat pier on the lake. Mr. Randolph testified that Petitioner's Exhibit 2 shows the subject lot with the sewer line easement and also shows a flood hazard area adjacent to the lake. He testified that the water level in the lake is regulated by the Pagosa Area Water and Sanitation District, and this would control the water level from the lake onto the subject.

Respondent's witness, Ms. Keren Prior, Archuleta County Assessor, testified that any time trending analysis on properties in Archuleta County is accomplished by the Division of Property Taxation and not by the Archuleta County Assessor's Office. She testified that, per the Colorado State audit, no time trending should have been applied in Mr. Randolph's appraisal.

Respondent assigned an actual value of \$287,500.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2009. The Board placed greater reliability upon Respondent's value estimate. The three comparable sales were located in the same residential subdivision as the subject. The Board agreed with the appraiser's adjustment analysis to the three comparable sales. The Board concurred with Respondent's assigned value of \$287,500.00.

**ORDER:**

The petition is denied.

**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).

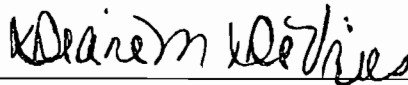
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

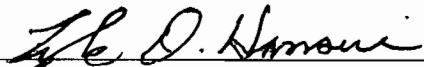
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 19 day of November 2010.

**BOARD OF ASSESSMENT APPEALS**

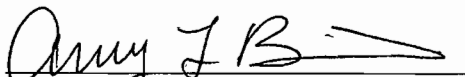


Diane M. DeVries



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

