

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PAUL FAMILY TRUST AND JOYCE L. NORTHUP,</p> <p>v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55298</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 5, 2010, Louesa Maricle and MaryKay Kelley presiding. Laurie Paul represented Petitioners. Respondent was represented by Todd M. Starr, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Docket numbers 55296, 55297, 55298 and 55299 were consolidated for purposes of the hearing.

Subject property is described as follows:

**14061B County Road 326, Pagosa Springs, Colorado
Archuleta County Schedule No. 5705-204-00-014**

The subject property is an 803 square foot frame cabin built in 1965 on a four-acre site in the Majestic Mountain Subdivision fifteen miles east of Pagosa Springs. The site is rectangular in shape, backs to U.S. National Forest, and is bisected toward the rear by the Rio Blanco River and an irrigation ditch, which provides water rights for a neighboring ranch. The cabin has a sloped second-floor loft, electric service, well and septic systems, a wood burning stove, and an electric wall furnace. Poorly insulated and without a conventional heat source, it is occupied seasonally. It is accessed from County Road 326 by an easement road accessing other lots as well. Thirty-six of the subdivision's lots (approximately half of them improved) are serviced by gravel roads.

Petitioners are requesting an actual value of \$162,195.00 for tax year 2009. Respondent assigned a value of \$292,580.00 but is recommending a reduction to \$290,000.00.

Ms. Paul described the area as remote wilderness at 8,800 feet with severe winters and difficult access due to heavy snows, rutted roads, and six-foot berms created by snowplows. There is no fire protection, and emergencies require rescue by helicopter. Ms. Paul argued that year-round use is not physically possible and that, accordingly, one criterion for highest and best use has not been met.

Ms. Paul described the cabin as uninhabitable in winter due to its remote location, the absence of a conventional heat source, poor insulation, inferior interior wall construction (see-through walls), a 1950's recreational-vehicle shower, and a rustic kitchen with older stove and refrigerator. She considered Respondent's comparable sales to have better-quality construction suited for year-round occupancy.

Ms. Paul presented one comparable lot sale, a vacant forty-acre parcel, selling on January 10, 2007 for \$1,100,000.00 or \$27,500.00 per acre. After multiplying the value per acre by the subject's four acres, Ms. Paul concluded to a value of \$110,000. She estimated the value of the 803 square foot residence at \$65.00 per square foot or \$52,195.00. No support was provided for the improvement value, and the total value did not include an allotment for the detached garage or the storage shed. A total estimated value of \$162,195.00 was concluded.

Respondent presented an indicated value of \$290,000.00 for the subject property. The witness, Mr. Robert G. Randolph, Licensed Appraiser, presented three comparable sales ranging in sale price from \$287,500.00 to \$349,000.00 and in size from 1,497 to 1,512 square feet. In addition to other adjustments, the witness addressed the site's national forest and river amenities, functional obsolescence, the easement road, and the irrigation ditch easement. After adjustments were made, the sales ranged from \$275,500.00 to \$295,500.00.

Mr. Randolph agreed that the cabin lacked an adequate heat source and sufficient insulation for winter use. He described its overall condition as average and the kitchen and bathroom as dated and suitable only for seasonal occupancy. He also acknowledged that his comparable sales were constructed for year-round use.

Mr. Randolph compared the subdivision favorably in comparison to others in the area. He confirmed the subdivision's elevation and winter weather but disagreed that year-round occupancy is not possible. He agreed that snowplows create berms and confirmed their existence in all mountain communities. He testified that the subject's proximity to Pagosa Springs offers accessibility to services and amenities, yet its distance from the town offers privacy, both of which carry marketability and value.

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

The Board relies on the comparable sales presented by Respondent because no comparable sales were provided by Petitioner. However, while the subject cabin was built for seasonal

occupancy, all of Respondent's comparable sales are year-round homes.. The Board finds that a conclusion at the lower end of Respondent's adjusted value range addresses this difference.

Contrary to Petitioners' argument, the Board is convinced that the subject subdivision is typical of mountain communities and that year-round occupancy is possible. The highest and best use for the subject property is residential.

Petitioners addressed the subject land and improvements as independent of one another. This process does not conform to appraisal methodology, which requires that an improved property be valued as an integral unit. Little weight is given to Petitioner's approach.

The Board concluded that the 2009 actual value of the subject property should be reduced to \$275,500.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$275, 500.00

The Archuleta 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).

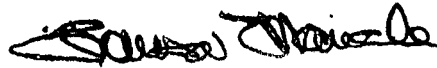
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

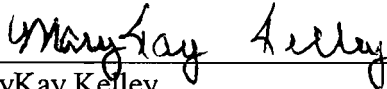
Section 39-8-108(2), C.R.S.

DATED and MAILED this 19 day of November 2010.

BOARD OF ASSESSMENT APPEALS




Louesa Maricle



MaryKay Kelley

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



Amy Bruins