

<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>BV REALTY LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 55614</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 25, 2011, Louesa Maricle and Gregg Near presiding. Petitioner was represented by Anthony O. Brown. Respondent was represented by Rebekah S. King, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**Lot 1, BV1 Idarado Subdivision, Telluride, Colorado  
San Miguel County Schedule No. R1030050043**

The subject property consists of a vacant residential lot containing 3.67 acres.

Petitioner is requesting an actual value of \$850,987.00 for the subject property for tax year 2010. Respondent assigned a value of \$1,400,000.00 for the subject property for tax year 2010.

Petitioner presented no comparable sales but chose to comment on the sales used by Respondent. Petitioner contends Respondent used inappropriate comparable sales for the subject property. Petitioner indicated two of the three sales used by Respondent were from different subdivisions containing smaller lots that are not as steeply sloped, that are closer to the Town of Telluride, and that do not suffer from the same adverse influence from the Geologic Hazard Area situated above the subject property.

Petitioner presented several communications between himself, Mr. Chris Chaffin (the agent for the Idarado Legacy HOA and the sales agent for the developer), and Mr. Arthur I. Mears, Professional Engineer. Mr. Mears is a consultant for natural hazards and developed a report for the subdivision developer detailing the geologic hazard area(s) influencing sites in the Idarado development. Petitioner argued the engineer's report was faulty, as his property was damaged by a rockfall incident, which was anticipated to occur only in increments of 750 years or less. Petitioner questioned whether Respondent was aware of specific rockfall incidents on the subject property and their influence upon the marketability of the property.

Petitioner contends Respondent's Comparable Sale 1 is the only reasonable comparable for his property, as it is located adjacent to the subject property, sold near the end of the valuation period, and suffers from the same adverse hazards.

Petitioner suggests that since Comparable Sale 1 sold for \$164,474.00 per acre, that unit price is appropriate for his property. Application of that unit price would indicate a value of \$603,620.00, rounded, though Petitioner calculated the figure using 3.57 acres (resulting in a value of \$587,172, rounded).

Petitioner also suggested the price paid for the building envelope is appropriate for comparison. Comparable Sale 1, with an 81,113-square foot building envelope, commanded a unit price by this method of \$30.82. Applying this unit value to the subject's 36,170-square foot building envelope produces a value indication for his property of \$1,114,802.00.

Petitioner's average of these two approaches, calculated from 3.57 acres, is \$850,987.00, rounded. The Board calculated the average based upon the correct acreage, 3.67 acres, for a final figure of \$859,211.00, rounded.

Respondent's witness, Mr. Guy T. Poulin, Certified Residential Appraiser, presented a value of \$1,400,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$1,400,000.00 to \$1,974,000.00 and in size from 1.17 acres to 15.20 acres. After adjustments were made, the sales ranged from \$1,788,500.00 to \$1,925,000.00. The comparables were analyzed for proximity to geologic hazard(s) and adjusted for differences. Respondent concluded the adjusted comparable sales supported the value previously determined.

Respondent also reported seven subdivision sales considered similar to the subject. The comparable sales, from the Liberty Bell and Bridal Veil Subdivisions, ranged from 0.61 acres to 15.2 acres. The sales ranged in price from \$1,400,000.00 to \$2,600,000.00. The subject, purchased in September 2005 for \$1,900,000, was included in this array for comparison purposes.

Respondent testified that all development lots contain a building envelope, ranging from 22,000 square feet to 80,000 square feet. Two of the comparable sales were within the Idarado subdivision and subsequently were improved with 4,216 square foot and 8,078 square foot residences, ranging from excellent to exceptional quality. Five additional homes have been

developed since 2008, which demonstrates buyers are able to build suitably sized homes on lots smaller than the subject.

Based on those findings, Respondent indicates there is a premium placed upon the building site governed by the building envelope. Additional land is defined as surplus. Surplus land is valued at \$50,000.00 per acre.

Respondent assigned an actual value of \$1,400,000.00 to the subject property for tax year 2010.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2010.

The Board finds Petitioner presented compelling arguments that Respondent's Comparable Sale 1, BV2, has certain features that are very similar to the subject. The Board commends Petitioner for its analysis of the value provided by the building envelope. The Board also concurs with Respondent, in that there were sufficient additional comparable sales within the valuation period to allow for analysis and bracketing of the value opinion.

The Board was not persuaded that a comparable sale containing only 0.61 acre, despite an assumed 22,000 square foot building envelope, provides equal amenities for residential development as a 3.67 acre site with a building envelope of 36,170 square feet. Likewise, the sale of BV2, with a building envelope of 81,113 square feet—more than three and a half times the size of the allowable building area and more than two times the total site area of the smaller lot, is essentially equal and comparable to a 0.61-acre parcel.

From the information presented to the Board, it is clear that whether the building envelope is 22,000 square feet or 81,113 square feet, purchasers are paying a minimum of \$1,400,000.00 for buildable land in this market.

**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.

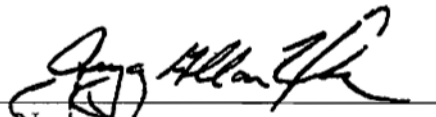
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 10 day of June 2011.

**BOARD OF ASSESSMENT APPEALS**

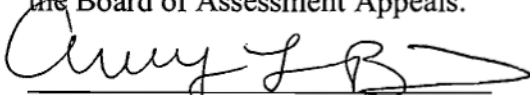


Louesa Maricle



Gregg Near

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



Amy Bruins

