

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TOLEDO AVENUE, LLC</p> <p>v.</p> <p>Respondent:</p> <p>LAKE COUNTY BOARD OF EQUALIZATION</p>	<p>Docket No.: 55638</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 7, 2011, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner was represented by Joseph Fattor, Principal. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2010 actual value of the subject property.

Docket numbers 55652 and 55638 have been consolidated for purposes of the hearing only. The parties stipulated to the size of the subject at 0.24 acre.

Subject property is described as follows:

**6391 Pt Valentine Lode Mining Claim, Leadville, Colorado
Lake County Schedule No. 20000328**

The subject property, a portion of the patented Valentine mining claim, is a vacant 0.24 acre parcel located in a neighborhood of mining claims overlaid by residential development. Slightly irregular, it is bordered by East Third Street and South Toledo Avenue. It is legally described by metes and bounds.

Petitioners are requesting an actual value of \$7,500.00 for the subject property for tax year 2010. Respondent assigned a value of \$46,663.00.

Mr. Fattor, unsure whether the subject parcel lies within or outside of city limits and whether it is serviced by water and sewer, questioned the related effects on value. He assumed that the parcel cannot be subdivided because it does not carry a lot and block legal description. He also argued that

it is inferior to Respondent's comparable sales: it sits higher than surrounding lots and is not level, it has neither curb nor gutter and no sidewalk, it is adversely affected by drainage from Toledo Avenue and Third Street, and it has no street access and no off-street parking.

Mr. Fattor rejected Respondent's Sales 2, 3 and 4 because their parcels incorporate two or three lots and can be profitably subdivided. He relied on Respondent's Sale 1 (\$15,000.00) because, like the subject, it was restricted to a single improvement. He made a 50% adjustment to reflect the subject's irregular shape, which influences a building footprint, and the impact of excavating and leveling, concluding to a value of \$7,500.00.

Respondent's witness, Howard Tritz, Lake County Assessor, presented five comparable sales ranging in price per acre from \$250,000.00 to \$483,333.00. He concluded to the median of the five (\$384,058.00 per acre) or \$93,326.00 for the subject, noting that the Lake County Board of Equalization reduced the original assigned value to \$46,663.00.

Mr. Tritz responded to Petitioner's critique of the subject parcel. Water and sewer are available. Its slightly higher elevation offers views, and its shape is slightly irregular and will not affect construction or a building envelope. The parcel easily accesses two streets. Excavation and construction would address drainage issues. Few neighborhood streets have curbs and gutters, and those that exist are in disrepair. City or county location does not impact value, and all homes in the area have water and sewer. A metes and bounds legal description does not preclude subdivision.

Mr. Tritz, responding to the argument that Sales 2, 3 and 4 can be subdivided and are less comparable, presented the average of Sales 1 and 5's price per acre (\$366,666.50) as support for the original assigned value of \$384,058.00 per acre.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2010.

The market approach is typically most reliable for valuing vacant parcels; however, the Board gives little weight to Respondent's application of it: taking the median and average sale prices. It considers Respondent's Sale 1 (0.06 acre at \$15,000.00) and Sale 5 (0.06 acre at \$29,000.00) most similar to the subject; single family improvements can be built on the subject parcel and on both sales. The Board is not convinced that the subject has any detrimental physical features and does not think adjustments need to be made accordingly. Because the subject is larger, value at the high end of the range is indicated. Value is estimated at \$29,000.00.

The Board also notes that the sale prices for Respondent's Sales 2 and 3 divided by their inclusive lots are \$19,333.00 and \$26,500.00, respectively (the number of lots for Sale 4 is unclear). This calculation supports the Board's value estimate of \$29,000, being that the subject parcel is larger at 0.24 acre.

ORDER:

Respondent is ordered to reduce the 2010 actual value of the subject property to \$29,000.00

The Lake 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 15 day of April 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

Amy Bruins

Amy Bruins

