

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN AND LYNDA L. SEMONCHICK,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55951</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 24, 2011, Sondra W. Mercier and Debra A. Baumbach presiding. Mr. John Semonchick appeared pro se on behalf of Petitioners. Respondent was represented by Jennifer A. Davis, Esq. Petitioners are protesting the 2010 actual value of the subject property.

Subject property is described as follows:

**Lot 15, Four Elk Camp Subdivision, Buena Vista, Colorado
Chaffee County Schedule No. R316322200042**

The subject property is a 4.96-acre site located in the Four Elk Camp Subdivision in Buena Vista. The topography is slightly sloping with dense pine trees and some aspen trees. There is a small creek, known as Four Elk Creek, running through the property, and access is from a gravel road maintained by the Home Owner's Association. There is electricity and telephone service available at the road.

Petitioner is requesting an actual value of \$115,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$194,003.00 for the subject property for tax year 2010.

Petitioner, Mr. Semonchick, testified he purchased the subject site in August 2009 for \$115,000.00. After receiving the Notice of Valuation with an indicated value of \$194,003.00, he questioned why the property had significantly increased in value.

Mr. Semonchick testified that Four Elk Creek is a small stream and not a significant creek, as stated by Respondent. Mr. Semonchick estimated that the stream measures 14” wide and 3-5” deep.

Mr. Semonchick contends Respondent did not utilize any comparable vacant land sales in the subject’s subdivision. Mr. Semonchick relayed that one sale occurred in the subdivision during the base period; the sale of Lot 23, which is 5.03 acres and sold for \$90,000.00. No adjustments were made. Petitioner contends that Respondent used superior sales located in a different market area, located up to 26 miles away.

Petitioner is requesting a 2010 actual value of \$115,000.00 for the subject property.

Respondent’s witness, Mr. Dean C. Russell, Registered Residential Appraiser, presented an indicated value of \$210,000.00 using the market approach. Respondent presented four comparable sales ranging in sale price from \$150,000.00 to \$224,000.00 and in size from 2.00 acres to 5.01 acres. After adjustments, the sales ranged from \$188,658.00 to \$252,115.00.

Mr. Russell testified that he selected comparable vacant land sales based on them having a creek or stream. While the sales are located in a different subdivision, they were considered to be the most similar in physical characteristics and required the least degree of adjustments. The sale of Lot 23 within the subject’s subdivision was not considered by Respondent because it lacked a creek or stream and trees.

Mr. Russell testified that the market recognizes a difference of \$55,000.00 for the lack of a creek or stream. Mr. Russell made additional adjustments for trees, view and site slope. Sales 1 and 2 are located on a larger creek and were adjusted downward, and Sale 3 is located on a tributary of the Arkansas River, which resulted in a larger downward.

Respondent assigned an actual value of \$ 194,003.00 to the subject property for tax year 2010.

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

The Board was convinced that the sale of Lot 23 within the subject’s subdivision should have been included in the valuation process. This sale is located in the subject’s subdivision and sold during the base period. While the Board agrees Lot 23 is inferior in physical characteristics to the subject’s site, it does share the same market influences as the subject.

Respondent’s comparable sales are located further away but in a competing market area, with Sale 4 being the closest at one mile away. Respondent made adjustments for all differences in physical characteristics. However, the Board was not convinced Respondent’s adjustment for differences in the presence of a stream, creek, or river were well supported by market data.

The Board heard testimony from Petitioner as to the small size of the creek running through the subject. The Board believes the market would recognize a value difference between sites with

the presence of a creek, stream and river and sites without. However, the Board was not convinced the market would recognize the significant value difference for a creek the size of the subject's.

The Board adjusted Lot 23 for time and lack of trees plus Respondent's adjustment of \$55,000.00 for the lack of a creek to reach an indicated value of \$164,000.00.

The Board concludes that the actual value of the subject property should be reduced to \$164,000.00.

ORDER:

Respondent is ordered to reduce the 2010 actual value of the subject property to \$164,000.00.

The Chaffee County Assessor is ordered 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 10 day of June 2011.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Debra A. Baumbach

Debra A. Baumbach

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

Amy Bruins

Amy Bruins

