

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DANIEL J. DALPES,</p> <p>v.</p> <p>Respondent:</p> <p>CLEAR CREEK COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 57530</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 1, 2011, Louesa Maricle and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Robert W. Loeffler, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2010.

Although Daniel J. Dalpes and Mary Ann Dalpes filed their appeal as co-petitioners, it was determined that Mary Ann Dalpes does not hold title to the subject property. Therefore, Mary Ann Dalpes' name was removed from the petition.

Subject property is described as follows:

**TBD Big Meadow Drive, Idaho Springs, Colorado
Clear Creek County Schedule No. 1835-171-00-007**

The subject property is a vacant four-acre site comprised of a one-acre and a three-acre mining claim (the Ormonde). It is located in the York Gulch residential community, which consists of approximately 75 residential sites, two of which are improved. The York Gulch homeowners' association maintains the dirt York Gulch Road, the primary access through the area. Subject terrain is sloping, views are panoramic, and exposure is southern.

Petitioner is requesting an actual value of \$15,000.00 for the subject property for tax year 2010. Respondent assigned a value of \$49,210.00.

Mr. Dalpes purchased the site for \$3,500.00 at a tax sale on March 19, 2010. In addition, he paid penalties between \$10,000.00 and \$12,000.00 and \$1,600.00 for a survey. His requested value of \$15,000.00 reflects money paid.

Mr. Dalpes presented six comparable sales ranging in sale price from \$22,000.00 to \$38,000.00 and in size from 3.23 to 6.09 acres. No adjustments were made to the sales. He put greatest weight on two sales: Sale 2 (the Precaution claim on 5.109 acres) sold for \$28,800.00, sits at a higher elevation, has better access, more level terrain, greater privacy, and comparable views; and Sale 4 (the Liberty claim on 6.09 acres) which sold for \$37,000.00, sits at a higher elevation with a better building envelope, superior access, and more trees with greater privacy.

Mr. Dalpes argued that a neighboring house impacts his view and should have been reflected in Respondent's value conclusion.

Mr. Dalpes expressed frustration with the valuation process. Different appraisals were submitted at the various levels of appeal, and it appeared that the assessor selected comparables with the highest sale prices.

Respondent presented a value of \$49,210.00 for the subject property based on the market approach. Respondent's witness, Diane M. Settle, Clear Creek Assessor, presented three comparable sales ranging in sale price from \$40,000.00 to \$52,000.00 and in size from 4.747 to 5.162 acres. All were located in the York Gulch community. After adjustments were made, the sales ranged from \$38,210.00 to \$50,100.00. Sale 2, with an adjusted sale price of \$49,210.00, was most similar to the subject and given most weight.

Ms. Settle rejected Petitioner's comparable sales: all were located outside the York Gulch community; all were in areas with more summer cabins than year-round homes; all were accessed by seasonal, non-maintained roads, some requiring 4-wheel access, and some being in poor condition.

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

The Board considers Respondent's comparable sales superior to those presented by Petitioner. It is convinced that the York Gulch community carries greater marketability because of its maintained road. The theory of comparability includes consideration of all sales with selection of those most similar; Respondent's sales are most similar to the subject.

The Board notes the view impact of the neighboring house. Respondent's witness did not consider the overall impact significant enough to justify an additional adjustment, and Petitioner did not provide compelling evidence otherwise.

The Board recognizes the multiple stages in the assessment process and the complexities in both mass and site-specific appraisals. It recognizes Petitioner's experience in the field of real estate and his participation in the sales comparison analysis. The Board concludes that Petitioner's

valuation of the property, based on the cost of the tax sale acquisition and the cost of a subsequent survey is not methodology that is supported by State statute.

“The actual value of such property...shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal.” C.R.S. 39-1-103(5)(a).

“Direct sales comparisons, with sales adjustments determined from market analysis, will be made.” *Assessor’s Reference Library* Volume 3.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

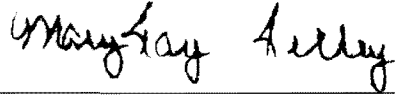
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 9th day of September 2011.

BOARD OF ASSESSMENT APPEALS

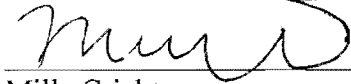


Louesa Maricle



MaryKay Kelley

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



Milla Crichton

