

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 57659

Petitioner:

KENNETH SPENCER,

v.

Respondent:

**SAN MIGUEL COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 26, 2011, Sondra W. Mercier and Diane M. DeVries presiding. Petitioner was represented by Raymond Bowers, Agent. Respondent was represented by Rebekah King, Esq. Petitioner is protesting the 2008 actual value of the subject property.

Subject property is described as follows:

**130 AJ Drive, Telluride, CO
Lot 389 Telluride Mountain Village
San Miguel County Schedule No. R1080097389**

The subject property consists of a .98 acre vacant residential land parcel. The subject is located in the Town of Mountain Village. The subject is larger than many golf course - related lots. Utilities are at the site and include electric service and natural gas. Water and sewer are provided by the Mountain Village Metropolitan District. The subject site is sloping up from the road and wooded in aspen trees. A small area of wetlands is in a northern triangular section. The building site is unaffected.

Petitioner is requesting an actual value of \$376,181.00 for the subject property for tax year 2008. Respondent assigned a value of \$472,500.00 for the subject property for tax year 2008.

Petitioner presented three comparable sales ranging in sale price from \$315,000.00 to \$395,000.00

Raymond Bowers, Agent for Petitioner, testified that the subject site has deficiencies of wetlands, road noise, limited view corridors, and steep home site. The wetlands are man-made due to the construction of AJ Drive.

Respondent presented a value of \$472,500.00 for the subject property based on the market approach.

Respondent presented five comparable sales ranging in sale price from \$395,000.00 to \$525,000.00 and in size from .56 to 1.05 acres. After adjustments were made, the sales ranged from \$421,624.00 to \$508,097.00 deriving a market value as of June 30, 2006 of \$508,000.00

Guy Poulin, Certified Residential Appraiser, testified as to the sales comparison approach as set forth in Respondent's Exhibit A. Mr. Poulin made adjustments for time, location, site size, view, and wetlands. The subject site is .98 acres and its 25-30% is estimated to be affected by the wetlands, which leaves a building site of .686 acres.

Respondent assigned an actual value of \$472,500.00 to the subject property for tax year 2008.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2008.

In tax year 2009, the subject property value was reduced by 20% at the Assessor's level, Petitioners' Agent believes that the same 20% should be applied to tax year 2008. This adjustment was done at the Assessor's level and was part of the mass appraisal system. 2009 is within a different base period than is the base period that is the subject of this hearing. When a property is appealed to the Board of Assessment Appeals, it is a "de novo hearing" and a site specific appraisal on the subject property is required. Every tax year is a year of its own for the property taxation purposes.

The Board determined that the comparable sales used by Respondent more adequately reflected the value of the subject property. Two of Respondent's comparable sales are on AJ Drive, one of which is next door to the subject property. These properties experience the same amenities and attributes as that of the subject. These properties were adjusted for the wetlands that the subject property experiences.

Based on the evidence and testimony presented at this hearing, the Board believes that the valuation placed on the subject property using the sales comparison approach for tax year 2008 accurately reflects the value of the subject property.

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 22nd day of November 2011.

BOARD OF ASSESSMENT APPEALS



Sondra W. Mercier

Sondra W. Mercier

Diane M. DeVries

Diane M. DeVries

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

Milla Crichton

Milla Crichton