

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 58027

Petitioner:

JOSEPH FATTOR,

v.

Respondent:

LAKE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 13, 2012, Louesa Maricle and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**Tract 10, Parcel 1C, EE Hill Estates, Twin Lakes, Colorado
Lake County Schedule No. 10209804**

The subject property is a vacant 4.87 acre site located in EE Hill Estates, a large residential development near Twin Lakes, a small town at the foot of Independence Pass. The site is sloping, steeply in some areas, and treed. It offers elevated views of the canyon and lakes as well as several 14,000-plus-foot peaks.

Petitioner is requesting an actual value of \$142,500.00 for tax year 2011. Respondent assigned a value of \$313,628.00.

Petitioner presented a market approach concluding to an indicated value of \$142,500.00. Petitioner's witness, Michael V. Campanale, Certified Residential Appraiser, presented five comparable sales. He placed greatest weight on Sales 1 (2.4 acres at \$100,000.00) and 2 (2.45 acres at \$142,500.00) because of their location within EE Estates. He made no adjustments to either sale: the subject's larger size was considered excess ground; and he was unable to quantify an adjustment for declining values. He concluded to a value based on Sale 2, on which Petitioner based his requested value.

Mr. Fattor agreed with Mr. Campanale that values declined during the base period and referenced the national recession's effect on the real estate market and the local impact from the temporary closure of the Climax Mine. His witness, Ann Schneider, Real Estate Broker and owner of Matchless Properties, described markedly fewer sales through mid-2010 and a value decline of 40% for vacant sites.

Mr. Fattor presented one comparable sale (Tract 4, Parcel 1B, EE Hill Estates), which sold September 26, 2007 for \$145,000.00 (4.110 acres).

Mr. Fattor made an equalization argument, presenting two properties for comparison to his assigned value of \$313,628.00: Tract 9A, Parcel 1A, EE Hill Estates (3.86 acres) with an assigned value of \$77,056.00; and Tract 6, Parcel 1A, EE Hill Estates (1.61 acres) with an assigned value of \$103,684.00.

Respondent presented a value of \$313,628.00 for the subject property based on the market approach. Respondent's witness, Howard Tritz, Lake County Assessor, presented one comparable sale (Tract 1, Parcel 1C, EE Hill Estates), noting that it was the only transaction in Parcel 1C since 2000. This five-acre site was sold on June 22, 2007 for \$322,000.00 or \$64,400.00 per acre. The assigned value was based on this value per acre for the subject.

Mr. Tritz described EE Estates as a large area with multiple subdivisions and a wide range of views. The subject is located in Parcel 1C, which has spectacular views and superior-quality improvements in comparison to Parcels 1A, 1B, 1D and 2. Additional support for Parcel 1C's desirability and value range was provided by a listing of a 4.5 acre parcel for \$300,000.00 or \$66,666.00 per acre. Mr. Tritz researched other areas, Playmor 1B two miles away being the most comparable subdivision. However, application of price per acre from sales in Playmor 1B would have derived a higher value for the subject lot.

Mr. Tritz dismissed Mr. Campanale's sales from consideration: none were located in Parcel 1C, which has superior-quality improvements and views; Sale 1 was never exposed to the open market and was not considered an arm's length transaction; Sales 3 and 4 were located considerable distances from the subject; and Sale 5 in Playmor was less than a half acre, not comparable in size.

Mr. Tritz acknowledged the country's recession but argued that local data indicated an overall value increase of 3.2% during the base period. He made no time adjustment to his one sale.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2011.

Mr. Tritz's knowledge of and description of the various parcels within EE Hill Estates, which represent varying views and overall desirability, is persuasive. Despite the preference for reviewing more than one comparable sale, the Board agrees that comparable sales should be selected from within Parcel 1C; none of Mr. Campanale's sales nor Mr. Fattor's sale lie within Parcel 1C and are, thus, considered inferior in overall desirability and views.

The Board heard disparate testimony regarding increasing/decreasing values within the base period. Despite their positions, neither party made time adjustments, and the Board has insufficient information to apply time adjustments in either direction.

Petitioner argued that his assessed value increased by 7% from the prior year based on the prior year's assessment having been adjusted for the steep slope of his lot. Respondent responded that the subject's terrain does not preclude building and that slope is no longer considered to negatively impact value. The Board agrees.

The Board puts little weight on Petitioner's equalization argument. In accordance with Colorado case law, an equalization argument is valid if evidence or testimony showed the assigned value of the subject property was derived by application of the market approach and correctly valued. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (Colo. 1997). Such evidence and testimony was not presented.

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).

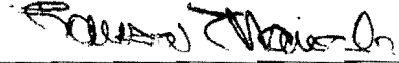
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

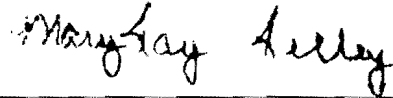
Section 39-8-108(2), C.R.S.

DATED and MAILED this 23rd day of April, 2012.

BOARD OF ASSESSMENT APPEALS

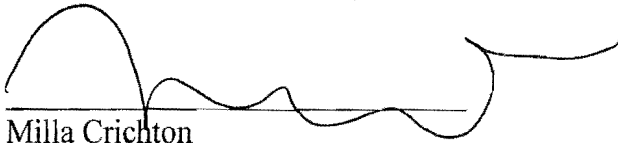


Louesa Maricle



MaryKay Kelley

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


Milla Crichton