

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 58931
Petitioner:	
CVR INVESTORS INC, v.	
Respondent:	
GARFIELD COUNTY BOARD OF EQUALIZATION.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on February 28, 2012, James R. Meurer and Gregg Near presiding. Petitioner was represented by J. Aaron Atkinson, Esq. Respondent was represented by Cassie Coleman, Esq. Petitioner is protesting the 2011 actual value of the subject property.

The parties agreed to consolidate the hearings of dockets 58930, 58931, and 58932.

Subject property is described as follows:

**Vacant Land
 Castle Valley Ranch
 New Castle, Colorado**

Garfield County Schedule Number: R043084, R043115, R043962 & R045250

The subject property consists of four parcels of vacant land located on either side of Castle Valley Boulevard within the Castle Valley Ranch PUD in the town of New Castle. The parcels vary in size, location within the PUD, and in the level of approved development by the town. The parcels are briefly described as follows:

Schedule No. R043084:	15.505 acres entitled for residential building units
Schedule No. R043115:	48.695 acres entitled for residential building units
Schedule No. R043962:	31.59 acres entitled for residential building units
Schedule No. R045250:	21.53 acres entitled for residential building units

The Castle Valley Ranch PUD consists of 640 acres of land annexed to the town of New Castle in 1984. The PUD, as currently amended, allows for development of 1,400 residential units and 100,000 square feet of commercial improvements. To date, there have been 740 residential units constructed. Currently, the development has 39 townhome sites and 33 single family sites with approvals for construction. An additional 17 single family sites have infrastructure but no approvals.

Petitioner presented the following indication of value:

\$261,900.00 via the Market Approach

Respondent presented the following indication of value:

\$3,519,600.00 via the Market Approach

Petitioner's witness, Mr. Steven Craven, a representative of CTS Investments LLC, testified regarding his history with the property. Mr. Craven is also a builder and developer and he detailed the recent history of the property. In 2004 and 2005, Village Homes purchased the subject holdings and controlled 440 developable lots. Village Homes eventually constructed 75 single family homes and 17 townhomes before entering chapter 11 bankruptcy in November 2008. Mr. Craven stated that there were only two building permits issued in New Castle in 2009 and one in 2010. To go forward with construction, the owner must invest an additional \$50,000.00 per lot for remaining development costs and \$1.5 million must be invested in road infrastructure.

Petitioner's witness, Mr. Ronald Atkinson, a Vice President of CVR Investors Inc., detailed the purchase in April 2010 of 13 developed tri-plex pads, 17 platted single-family lots and 120 acres of vacant ground for \$700,000.00. Mr. Atkinson stated that the purchase involved 56 lots that were ready for construction with an anticipated sale price of \$20,000.00 each; and no value was given to the vacant land. The parties had agreed to a price of \$1,067,000.00 that was later reduced to \$700,000.00 as an incentive to expedite the sale.

Petitioner's witness, Mr. James Capecelatro, a real estate broker who represented the seller in the listing and sale to CVR Investors, related the marketing history. The property was listed in June 2009 for \$2 million. By January 2010, the price had been reduced to \$1.2 million and at that time CVR approached the seller. The seller was RFC Construction Funding, LLC (GMAC ResCap) as a result of the bankruptcy of Village Homes and subsequent non-performance on a \$15 million development loan.

Mr. Atkinson related his understanding that the entitlements for the 17 platted single-family lots were to expire in July 2013. The New Castle City Council had indicated that no extensions of the previous approvals would be granted. Going forward with development entailed an additional cost of \$23,000.00 per lot.

Petitioner's witness, Mr. Michael Van Donselaar, a property tax advisor, testified regarding a consulting assignment completed for Petitioner. Mr. Van Donselaar provided a present worth valuation as well as a Market Approach for unimproved land sales.

Mr. Van Donselaar presented six unimproved land sales ranging in sale price from \$150,000.00 to \$1,170,924.00 and in size from 37.39 to 230.24 acres. Sales 2, 4 and 5 were adjusted downward for existing improvements to narrow the indications to land only. After adjustments were made for location, platting, utilities, terrain/shape, water and infrastructure, the sales ranged from \$3,365.00 to \$8,871.00 per acre. Sale 7, the April 2010 purchase by CVR Investors Inc, is included within the sales and is adjusted to \$5,469.00 per acre. The sale is then adjusted further by subtracting an additional \$438,100.00 for the value of the triplex lots, leaving a per acre value of \$2,238.00. The 117.32 acres of unimproved land have an indicated value of \$261,858.00.

Mr. Van Donselaar also determined a present worth valuation by presenting five comparable improved lot sales ranging in sale price from \$45,000.00 to \$99,900.00 and in size from 5,250 to 10,934 square feet. After adjustments were made for location, size, view, terrain/shape and utilities, the sales ranged from \$47,250.00 to \$68,400.00 with a concluded value of \$57,500 per lot. Based upon a maximum of 233 lots that can be constructed with the available water rights, the cost of remaining finish, a 50-year sell out and the appropriate present value factor, a value per lot of \$2,370.00 was determined. The 233 potential lots have an indicated value of \$552,210.00

Respondent presented a value of \$3,519,600.00 for tax year 2011 by use of the Market Approach.

Respondent's witness, Ms. Alicia Smith, a Registered Appraiser with the Garfield County Assessor's Office, presented four comparable sales ranging in price from \$1,070,000.00 to \$6,000,000.00 and in size from 40.22 to 148.2 acres. Due to inadequate sales available within the base period, the research was extended to a 48-month time frame. After adjustments were made for time, location and size, the sales ranged from \$19,487.00 to \$88,804.00 per acre.

The adjusted sales have a median indication of \$29,466.00 per acre that is reconciled to a unit value of \$30,000.00 per acre.

Ms. Smith testified that she chose not to consider the April 2010 purchase of the property by CVS because it did not meet the definition of an arms-length sale.

Petitioner contends that there is virtually no market for development land or improved lots. With the rate of sales in the last two years it will be hundreds of years before the lots will be absorbed. Petitioner also points to the impending loss of entitlements for the 17 single family sites as further evidence that values are depressed. Petitioner also insists the property value is too high because Petitioner is paying 20% of the purchase price each year for property taxes.

Respondent questioned the comparability of Petitioner's sales. The sales reported were either farms or land acquired for oil and gas development. Petitioner's sales were located long distances from grocery stores or schools and not similar in use to the subject. Respondent also asserts Petitioner's characterization of a several hundred year sell-out as too extreme.

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

The Board was not convinced by Petitioner's comparable sales and does not consider them to represent the same highest and best use as the subject. The Board agrees with the procedure of separating the finished townhome sites in this analysis, however, Petitioner did not present the Board with sufficient justifications for the adjustments. The Board found Petitioner's present worth analysis to be not compelling due to over reliance upon only a two year period for analysis of expected absorption.

The Board agrees with Ms. Smith's decision not to consider the April 2010 purchase of the property by CVS because it did not meet the definition of an arms-length sale.

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 2nd day of April, 2012.

BOARD OF ASSESSMENT APPEALS



James R. Meurer



Gregg Near

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



Milla Crichton

