

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD B. QUIGLEY PROFIT SHARING PLAN,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 59102</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 27, 2012, Louesa Maricle and MaryKay Kelley presiding. Richard B. Quigley represented the profit sharing plan. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**6534 Legend Ridge Trail, Niwot, Colorado
Boulder County Schedule No. R0507395**

The subject property is a vacant 0.73 acre site located in the Legend Ridge Subdivision, which is comprised of 53 lots surrounded by open space.

Petitioner is requesting an actual value of \$158,000.00 for the subject property. Respondent assigned a value of \$325,000.00.

Petitioner purchased the lot in December of 2009 for \$200,000.00, which included water and sewer tap fees of \$42,000.00. Mr. Quigley is requesting a value of \$158,000.00, the sale price without tap fees.

Mr. Quigley presented four comparable lot sales in the nearby Foxhaven Subdivision. Each sold for \$129,534.00 in 2008 without water and sewer taps. Mr. Quigley estimated that time-adjusted sale prices were \$121,386.00; he made no other adjustments.

Mr. Quigley presented one comparable sale at 6552 Legend Ridge Trail, offered for its location within the subject subdivision. Its sale price of \$460,000.00 included a partially-built home he valued at \$300,000.00. No adjustments were made to this sale.

Mr. Quigley reviewed Respondent's sales. Sale 1 carried no weight because the purchaser was from Texas, uninformed and naïve. Sale 2 involved a trade for an improved site.

Mr. Quigley disagreed with Respondent's time adjustment, arguing that improved lots were used in the analysis rather than vacant sites.

Mr. Quigley discussed Boulder County's BuildSmart Program, which became effective in May of 2008. Encouraging environmentally friendly construction, it is required for homes over 6,000 square feet. Mr. Quigley argued that the program adds significant cost to new construction and provided an example at 6525 Legend Ridge Trail, which was impacted by an estimated \$149,000.00. The nearby Gold Branch Subdivision has sold only one site due to resistance to higher construction costs, and he argued that the program negatively impacted the market value for vacant sites.

Mr. Quigley presented comparisons of six actual values in the subject subdivision for tax years 2008 and 2010. He also noted that the subject's 2011 actual value was considerably higher than values for neighboring sites.

Respondent presented a value of \$360,000.00 for the subject property based on the market approach. Respondent's witness, Stewart A. Leach, Certified General Appraiser, presented three comparable sales ranging in sale price from \$450,000.00 to \$529,100.00. After adjustments were made for time, size, and location, the sales ranged from \$320,000.00 to \$387,000.00. All three were located in the subject subdivision. Mr. Leach gave Sale 1 most weight and Sale 2 secondary weight.

In response to Petitioner's comments, Mr. Leach considered Sale 1's Texas purchaser to be an informed buyer who is now building a house on this lot. He considered Sale 2 to be an arm's length transaction despite the trade, which he questioned because it was not reported by the purchaser. He dismissed Petitioner's sale at 6552 Legend Ridge Trail for two reasons: the transaction was a short sale; and its partial construction involved estimating the value of a partly-built home, a building permit, and completion of a floor plan not specifically selected by the purchaser.

Mr. Leach did not consider the sale of the subject property an arm's length transaction. He presented documents showing that Petitioner and the bank had negotiated a sale price prior to the auction and that the price represented a lower-than-market value.

Mr. Leach defended his use of improved sales to arrive at time adjustment factors. Vacant land sales were few in number with a wide range of sizes, locations, access, and subdivision age.

Mr. Leach discussed Petitioner's four sales in Foxhaven Subdivision. All were considerably smaller than those in Legend Ridge Subdivision, which abutted land deeded to a conservation easement. Also, they did not include any other information and carried no other adjustments.

Mr. Leach disagreed that the BuildSmart Program impacted vacant lot sales. It is not required for homes below 6,000 square feet, and although it adds to construction costs, it also offers substantial tax credits.

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

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of vacant sites within the subject subdivision and adjusting for time, size, and location.

The Board places little weight on Petitioner's comparison of actual values. "Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

The Board is convinced that Respondent completed a thorough yet unsuccessful search of vacant sites for a time adjustment and subsequently and appropriately analyzed sales of improved sites. Petitioner presented no persuasive alternative for time adjustments.

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).

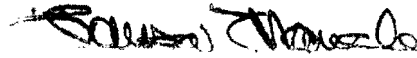
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

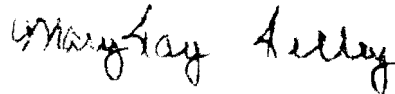
Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of March, 2012.

BOARD OF ASSESSMENT APPEALS

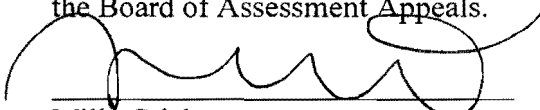


Louesa Maricle



MaryKay Kelley

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



Milla Crichton