

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

Docket No.: 59266

Petitioner:

JOSEPH J. SPAHN,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 11, 2012, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by James Burgess, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**10472 Beas Lane, Conifer, Colorado
Jefferson County Schedule No. 124530**

The subject is a vacant two-acre site in the Conifer Meadows Subdivision. Sloping and treed with a southwest exposure, it is located approximately 5.2 miles from U.S. Highway 285.

Respondent assigned a value of \$70,000.00 for tax year 2011. Petitioner is requesting an actual value of \$31,293.00.

Petitioner expressed dissatisfaction at his property's \$5,820.00 increase in actual value and with the disparity in assessment rates between vacant land (29%) and improved sites (7.96%).

Petitioner presented three comparable sales: a 9.75 acre site (\$98,000.00), a 2.0 acre site (\$60,000.00), and a 4.10 acre site (\$90,000.00). Mr. Spahn calculated an average sale price per acre of \$15,646.69. Based on this analysis, he is requesting a rounded value of \$31,293.00 for his property.

Mr. Spahn quoted the subject's elevation at 9,843 feet, comparing it to Respondent's Sale Two at 8,858 feet. He argued that his elevation resulted in a longer commute to Highway 285, even longer in adverse weather. An adjustment should have been made to Respondent's Sale Two.

Respondent presented a value of \$75,000.00 for the subject property based on the market approach. Respondent's witness, Tammy Crowley, Certified General Appraiser, presented three comparable sales ranging in sale price from \$60,000.00 to \$93,000.00 and in size from 2.0 to 4.1 acres. After adjustments were made for a declining market, tree coverage, and solar exposure, adjusted sale prices ranged from \$70,250.00 to \$83,200.00.

Based on Petitioner's comments about tree cover and GIS photos, Ms. Crowley acknowledged that Sale One appeared to have adequate tree cover but that Sale Two did not. She declined to change her analysis without additional inspection.

Ms. Crowley addressed Mr. Spahn's comments regarding elevation and driving distance to Highway 285. Greater elevation typically equates to superior views, offsetting a slightly longer commute. She declined to make an adjustment to Sale Two and added that no market evidence was presented by Petitioner to support one.

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

Both state constitution and statutes require use of the market approach to value residential property. The Board gives little weight to Petitioner's methodology of averaging. It is not considered appropriate appraisal practice; the indicated value should be derived from analysis of the comparables and their adjustments.

The Board also notes that Petitioner used two of Respondent's three comparable sales, the third being a 9.75-acre site not considered comparable to the subject. Also, the Board agrees with Respondent in that an adjustment for elevation and distance from Highway 285 is not supported.

The Board recognizes the multiple stages within the appeal process and the complexities of an appraisal. Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for market changes and physical characteristics. Value may, indeed, be higher than the prior year's actual value but was determined by comparison of sales of similar properties during the base period, which also reflects economic and market changes.

The Board questions the absence of a size adjustment for Respondent's Sale Three (4.1 acres); although Ms. Crowley could not delineate an adjustment from the marketplace, the Board is convinced that the typical purchaser would likely pay more for a site twice the size (privacy, additional tree cover, building envelope options). Re-calculation of Respondent's market analysis to reflect trees on Sale One's site, an absence of trees on Sale Two's site, and Sale Three's larger size is insufficient to lower value below that assigned.

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 5th day of June, 2012.

BOARD OF ASSESSMENT APPEALS

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

Milla Crichton

Debra A. Baumbach

MaryKay Kelley