

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MATTHEW J. FONDIE,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>SUMMIT COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 60426</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on July 23, 2012, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Frank Celico, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2009 and 2010.

Dockets 60426 and 60427 were consolidated for purposes of the hearing.

Subject property is described as follows:

**Lot 108, Highlands at Breckenridge, Discovery Hill #2  
Summit County Schedule No. 6512086**

The subject is a 2.01-acre single-family residential lot accessed via a paved private easement from Discovery Hill Drive. Topography is sloping with wetlands along the eastern lot line. Views are typical for the subdivision.

Respondent assigned a value of \$434,395 but is recommending a reduction to \$377,050. Petitioner is requesting an actual value of \$300,000.

Mr. Fondie described a mound of dirt, estimated to be 40 feet in diameter and 12 or 13 feet high, dating from the area's mining era. It requires removal so a driveway can be built to grade. He argued that the mound impacts construction as well as value and estimates a cost to cure of \$27,989.

Mr. Fondie re-calculated Respondent's comparable sales, concluding to four indicated values, which he then averaged for a concluded value of \$423,567. He applied an adjustment of 21% for the subject's public road easement, concluding to a value of \$327,989. Mr. Fondie then subtracted the estimated removal cost for the berm (\$27,989), concluding to a requested value of \$300,000.

Mr. Fondie expressed frustration with the appeal process, particularly different adjustments applied at the various levels of appeal.

Respondent presented a value of \$377,050 for the subject property. Respondent's witness, Michael W. Peterson, Certified General Appraiser, presented four comparable sales ranging in sale price from \$380,000 to \$510,000. After adjustments for time, size, public versus private access and the impact of the easement, topography and view, tree cover and wetlands, and open space, the sales ranged from \$341,077 to \$473,940. Most weight was placed on Sale Four, which had the fewest adjustments.

Mr. Peterson, while not disputing the presence of the dirt mound, argued that either the driveway be relocated or that the berm be removed. The latter falls within the cost of excavation and has no impact on development or value.

Petitioner presented insufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax years 2009 and 2010.

The Board gives little weight to Petitioner's methodology of averaging indicated subject values for each of the comparable sales; it is not considered to be an appropriate appraisal practice. Respondent's witness correctly completed a site-specific appraisal of the subject property, adjusting for time, size, and a variety of physical characteristics.

The Board, while acknowledging the presence of the dirt mound, considers its removal part of site and driveway excavation without impact on marketability or value.

The Board recognizes the multiple stages in the assessment process and the complexities in both mass and site-specific appraisals. Acknowledging the differences between the mass appraisal presented at prior levels of appeal and the site-specific appraisal completed for this hearing, the Board is convinced that Respondent's appraiser made a thorough inspection of the subject and comparable sales, addressed specific issues, and applied adjustments in accordance with professional, state, and statutory regulations.

**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 14th day of August, 2012.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*MaryKay Kelley*

MaryKay Kelley

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

*Milla Crichton*  
Milla Crichton

