

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.:62022

Petitioner:

PHIL E. PIGOTT,

v.

Respondent:

COSTILLA COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 22, 2013, Diane M. DeVries and Gregg Near presiding. Petitioner appeared *pro se*. Respondent was represented by Edwin Lobato, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**Vacant land: E2 W2 of SEC 34-2-73 [191-590]
Costilla County, Colorado
Costilla County Parcel No. 30005630**

The subject property consists of a 170-acre tract of vacant land located on County Road H, approximately two miles south of Colorado Highway 159. The land is undeveloped. There is an arroyo/drainage feature and some trees. There are no public utilities to this property.

Petitioner is requesting an actual value of \$17,000 for the subject property for tax year 2013. Respondent assigned a value of \$34,000 for the subject property for tax year 2013.

Petitioner presented one comparable sale of a 40-acre parcel situated southwest of his property. The land sold for \$5,000, or, \$125 per acre. Mr. Pigott noted this property is close to a reservoir and is superior for that fact. Petitioner argued that a buyer of a larger tract such as his property would require a discount and for that reason he considered \$100 per acre to be appropriate.

Petitioner is requesting a 2013 actual value of \$17,000 for the subject property.

Respondent presented a value of \$34,000 for the subject property based on the market approach.

Respondent's witness, Ms. Ronda Lobato, a Certified Residential Appraiser, presented three comparable sales ranging in sale price from \$30,000 to \$61,000 and in size from 122 to 251 acres. After adjustments were made, the sales ranged from \$31,800 to \$85,000.

Ms. Lobato reported five sales that occurred during the valuation period. However, two sales were of 40-acre tracts and, due to being considerably smaller than the subject parcel, those two sales were not included in Ms. Lobato's analysis. Respondent designated the smaller tracts in its analysis as "vacant residential" and larger tracts as "other". Ms. Lobato then concentrated on the three comparable sales noted above. The sales bracketed the size range of the subject. The sales were considered similar in overall location, terrain, utility service (none) and access. Each of the sales was adjusted for size. The largest sale was adjusted downward at a unit value of \$200 per acre and the smaller sales were adjusted upward at the same unit value.

Ms. Lobato concluded to a unit value of \$200 per acre and an actual value for the subject of \$34,000 for tax year 2013.

Petitioner contended his property does not have running water as Respondent claimed. His property only has water on the site when it is released from an upstream reservoir. Mr. Pigott argued Respondent's sale 3 included water rights and Respondent has not adjusted for that factor and therefore overvalued his property.

Respondent stated that sale 3 did not include water rights and did not need further adjustment. Respondent also claimed that Petitioner's reliance on a 40-acre tract did not present a reliable comparison to a property with 170 acres.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

The burden of proof is on Petitioner to show that Respondent's valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Mr. Pigott's analysis focused only on one sale that was significantly smaller in size than the subject property. The Board finds Petitioner's analysis to be less reliable than Respondent's consideration of multiple sales of properties more comparable in size. However, the Board also questions Respondent's reliance on only five sales within the 18-month study period. Further, the Board notes that Respondent's sale 3 is outside the value range with insufficient explanation. The Board also observes that Respondent's concluded value range is greater than the range prior to adjustment. However, even after taking into consideration the deficiencies in Respondent's appraisal, the Board finds that Respondent's analysis was nevertheless more persuasive than Petitioner's evidence consisting of only one comparable 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 30th day of October, 2013.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Gregg Near

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

Milla Lishchuk