

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DELL AVERY,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62167</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 29, 2013, Diane M. DeVries and Gregg Near presiding. Mr. Bradly Maddock appeared *pro se* on behalf of Petitioner as Petitioner’s agent. Respondent was represented by Anthony J. DiCola, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Mr. Maddock argued for dismissal of the hearing because Respondent did not timely provide rebuttal documents. Respondent stated the documents were delivered to Petitioner’s address within the allotted time frame and Petitioner’s delay in retrieving the documents was not grounds for dismissal. The Board elected to continue the hearing and gave Petitioner’s claim of insufficient time for response the weight it deserved.

Subject property is described as follows:

**262 County Road 642
Lot 1A, Block 6
Lake Forest Subdivision First Addition
Grand County Schedule No. R309219**

The subject property consists of a vacant residential building lot located along the shoreline of Lake Granby. The lot contains 0.26 acres and, upon development, will be accessed by a privately maintained easement extending 200 feet from a county maintained road. The Grand County Department of Planning and Zoning confirmed the lot is buildable. Development will require extension of water and sewer at an estimated cost from \$20,000 to \$50,000.

Petitioner is requesting an actual value of \$75,000 for the subject property for tax year 2013.

Respondent assigned a value of \$176,400 for the subject property for tax year 2013.

Mr. Maddock presented no comparables but disputed the descriptions and analysis of the sales used by Respondent's appraiser. Mr. Maddock refuted Respondent's Sale 1 (the subject property) as not an arm's length transaction; as not "lake front" but rather "lake view" property and as burdened by the additional uncertain expense for extending public utilities. Mr. Maddock presented an equalization argument questioning why the subject property increased in value in the current valuation cycle when adjacent and similar properties declined. Mr. Maddock concluded with an analysis of the vacant land sales in the county of 0.50 acres or more within the 24-month period prior to June 30, 2012. The sales averaged \$31,732.35 with a high of \$95,000. Mr. Maddock concluded to a final value of \$75,000 for the subject.

Respondent presented a value of \$200,000 for the subject property based on the market approach.

Respondent's witness, Ms. Betty Stafford, a Licensed Appraiser, presented four comparable sales ranging in sale price from \$210,000 to \$450,000 and in size from 0.16 to 0.28 acres. After adjustments were made, the sales ranged from \$172,342 to \$296,010. Ms. Stafford utilized a 5-year data collection period with sales occurring between September 2008 and June 2011.

Sale 1 was the sale of the subject property, a June 2011 transaction within the base period. Sales 2 and 4 were also located on Lake Granby. Sale 3 had frontage on 40-acre Columbine Lake with a restriction on motorized boats. Ms. Stafford gave greatest weight to Sale 1 and concluded to a value of \$200,000.

Respondent concluded to an actual value of \$200,000 but is recommending a reduction to the assigned value of \$176,400 for the subject property for tax year 2013.

Mr. Maddock contended that reliance upon the sale of the subject property was inappropriate as the lot was never listed and the price did not represent market value because the buyer and the seller were adjacent property owners. The lot is not "lake front" property because the average elevation of the lake is 30 feet below his property line resulting in a water line up to 300 feet from the lot boundary. Mr. Maddock also questioned the use of sales that took place up to five years prior to the valuation date. In addition, Mr. Maddock noted the subject's access easement was too close to neighboring properties and the access was in poor condition.

Respondent countered Mr. Maddock's claim that the subject sale did not represent market value noting Petitioner's submission of a document to the county confirming the June 2011 sale to have been arm's length. Respondent also pointed out that the shoreline in Lake Granby has always fluctuated, sometimes daily, because the lake is a storage facility for front-range communities. Respondent's sales have similar locations with three of the four located on Lake Granby. Respondent refuted Petitioner's claim of poor access stating it met current standards. Respondent also contended that Petitioner's agent was not an appraiser and was not otherwise qualified to present

an opinion of value. Further, Respondent considered the base period sale of the subject to be the most compelling.

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

The Board agrees that the base period sale of the subject is the most compelling indication of its value. The Board also determined that Respondent's appraiser considered transactions of similar properties within the allowed valuation period and made proper adjustments. The Board notes Petitioner's equalization argument but the subject's actual sale during the base period outweighs other consideration.

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-nine 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 20th day of November, 2013.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

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Gregg Near

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

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Milla Lishchuk

