

<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>RICHARD L. GRIFFITH,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>LARIMER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 62609</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 5, 2014, Diane M. DeVries and Debra A. Baumbach presiding. Richard L. Griffith appeared *pro se*. Respondent was represented by David P. Ayraud, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**Vacant Land  
Highway 66, Estes Park, Colorado  
Larimer County Schedule No. R0570826**

The subject property is a vacant land site consisting of 3.48 acres located in Estes Park. The site is irregular in shape and the topography is generally level. The site rises in elevation from the northwest side sloping toward the southeast. The southern portion of the site is treed and borders the Big Thompson River. The remaining area consists of an open meadow and wetlands. The property is accessed via a 30 foot wide easement. There are no utilities; zoning is CO-Commercial Outlying.

Petitioner is requesting an actual value of \$32,237 for the subject property for tax year 2013. Respondent assigned a value of \$208,000 for the subject property for tax year 2013 but is recommending a reduction to \$150,000.

Petitioner described the subject property as a 3.48 acre vacant land site that was originally a portion of a large farm owned by his grandfather. Mr. Griffith testified the property was the least productive area of the original farm because of the boggy pasture and wetlands covering large area of

the site. Mr. Griffith stated the site has no usable land area or a building site. Mr. Griffith indicated that despite a 30 foot wide deeded easement, there is no viable access to the site. Because of steep bluffs and a narrow easement, the cost to construct a functioning access road is unfeasible and prohibited.

Mr. Griffith contends there are no comparable sales for his property. Mr. Griffith relied on an equalization argument discussing the actual values of two properties adjacent to the subject site. Mr. Griffith based his value conclusion for the subject by dividing the actual assessed values of the two adjacent sites by their total acreage and applying the indicated per acre value to the subject's 3.4 acres. He also applied an adjustment for the lack of access and concluded to a value of \$32,237.

Respondent's witness, Ms. Kathy Thornton, a Licensed Appraiser, presented four comparable sales ranging in sales price from \$260,000 to \$390,000 and in size from .65 to 2.94 acres. After adjustments were made, the sales ranged from \$59,984 to \$201,984.

Ms. Thornton testified she selected vacant land sales that were the most similar to the subject in location, topography and market perception. Ms. Thornton noted that she relied on a 24-month extended study period to gather vacant land sales within Estes Park because insufficient sales took place within the 18-month base period. Ms. Thornton stated she adjusted the sales downward significantly taking into consideration the adverse factors affecting the subject site.

Ms. Thornton stated Sale 1 is the most similar in land size to the subject site and Sales 2, 3 and 4 have smaller sites. Because wetlands cover a significant portion of the subject, the site utility is diminished and therefore no adjustments were made to any of the sales for size differences. Sales 3 and 4 occurred within the extended study period and were adjusted upward for market change differences. All four sales were adjusted downward for difference in road access, utility, electricity and wetlands mitigation plans. Ms. Thornton testified she obtained cost figures from the local utility company ranging from \$11,500 to \$23,500 for electricity, water and sewer. Based on conversations with a local construction company, a cost of \$40,000 was estimated to construct an access road. Ms. Thornton's road, utility and electricity adjustments ranged from \$51,500 to \$63,500 (which included the \$40,000 cost of establishing an access road).

Ms. Thornton also stated she contacted Mr. Terry McKee from the US Army Corps of Engineers who inspected the subject's wetlands on December 26, 2013. Mr. McKee recommended an individual permit for wetlands mitigation and provided costs for the mitigation plan, labor and wetlands delineation. Ms. Thornton also reviewed cost estimates from various companies on the internet in determining overall costs and concluded to an overall estimated cost of \$136,516.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property should be reduced from Respondent's recommended value of \$150,000.

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). After careful consideration of the testimony and exhibits presented at the hearing, the Board was convinced that Respondent's

recommended lower value of \$150,000 is supported and accurately reflects the subject's market value.

The Board gave minimal weight to Petitioner's equalization argument in deriving a value for the subject site. The Board can consider an equalization argument (comparison of actual values) if evidence or testimony is presented showing that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gave limited weight to the equalization argument presented by Petitioner. While the Board was convinced that the costs associated with wetlands mitigation, road access and utilities, are significant, Petitioner did not present any refuting evidence that Respondent's adjustments were insufficient.

Respondent presented an appraisal report utilizing four comparable sales and adjusted each of the sales over 50% of the sales price supporting that sufficient consideration was given to any factors adversely affecting the subject.

The Board concludes that the 2013 actual value of the subject property should be reduced to \$150,000.

**ORDER:**

Respondent is ordered to reduce the 2013 actual value of the subject property to \$150,000. The Larimer County Assessor is directed to change his/her records accordingly.

**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-nine 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 21st day of August, 2014.

**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*

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Diane M. DeVries

*Debra A. Baumbach*

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Debra A. Baumbach

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

*Milla Lishchuk*

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Milla Lishchuk

