

<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>LINDA M. SHEPHERD AND GAYLORD B. BUCK III,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63112</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 7, 2014, Diane M. DeVries and MaryKay Kelley presiding. Gaylord B. Buck III appeared *pro se* on behalf of Petitioners. Respondent was represented by Writer Mott, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**21558 Taos Road, Indian Hills, Colorado  
Lots 26, 27, 28, 30 and 32, Block 11, Indian Hills Filing 2  
Jefferson County Schedule No. 164648**

The subject is a vacant parcel comprised of five platted lots totaling 1.574 acres; one acre is required for a legal building site, and consolidation of lots is common in the area. Indian Hills platting dates to the 1920s with homes of varying ages, sizes, and construction quality. Lot 32 is located within a moratorium prohibiting new wastewater treatment systems; new construction is permissible on any of the other four lots. The parcel has a water tap, but an advanced wastewater treatment system is required for residential construction.

Respondent assigned a value of \$71,700. Petitioners are requesting a value of \$8,578.57.

Mr. Buck considered the parcel unbuildable and noted several challenges to construction: rocky, steep terrain and difficult access; a 25-foot required setback from a gulch, which affects Lots

26 and 27; a 50-foot required setback from a high pressure water line, which impacts Lots 26 and 27; a 200-foot required setback from existing wells, which affects Lots 26 and 27 and most of Lots 28 and 30; and the engineering, feasibility, legal, and physical costs of an advanced septic treatment system. He argued that Respondent's appraisal did not address the burden of these costs.

Mr. Buck questioned the 185% increase in actual value. Arguing that Respondent's sales were dissimilar to the subject parcel, he requested comparison of actual values of other moratorium lots. Using five parcels of multiple lots affected by the moratorium, he concluded to a value of 8,578.57.

Respondent presented a value of \$100,000 for the subject property based on the market approach. Respondent's witness, Tammy J. Crowley, Certified General Appraiser, presented three comparable sales ranging in sale price from \$68,500 to \$147,000 and in size from 0.993 acre to 1.745 acres. After adjustments were made, the sales ranged from \$78,775 to \$120,540. Ms. Crowley placed most weight on Sale One, which is located in Indian Hills and sold for \$100,000; no adjustments were deemed appropriate.

Ms. Crowley selected her comparable sales for their negative marketability issues: construction of a driveway on Sale One resulted in encroachment on the adjacent parcel; Sale Two was a considerably steeper parcel requiring an easement for access; and Sale Three was a steeper lot with rock outcroppings and a limited building envelope.

Ms. Crowley, responding to Petitioners' concerns about the feasibility and cost of residential construction, noted that setbacks were not atypical in Indian Hills and that most lots required advanced treatment systems. She argued that, despite the subject's challenges, it has several potential building sites, terrain does not prohibit residential construction, and access is available from Osage Road.

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

The Board acknowledges Petitioners' concerns about the obstacles to residential construction. However, they are common to the mountain environment and to Indian Hills; topography, access, setbacks, wells and septic systems; and building envelopes. The Board finds that residential construction on the subject parcel is feasible and not unlike other parcels in Indian Hills.

Both state constitution and statute require use of the market approach to value residential property. While Petitioners contend that Respondent's sales are not comparable and that adjustments are inadequate, Petitioners provided no alternative sales data or quantifiable support for alternative adjustments.

The Board is unable to consider Petitioners' equalization argument (comparison of actual values). Equalization arguments that state that a subject property's value should conform to the values of similar properties without regard to any quality or value differences are not permissible. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P.2d 14, at 17 (Colo. 1997)

**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).

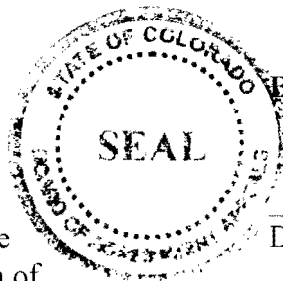
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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-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 24th day of February, 2014.



**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*

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Diane M. DeVries

*MaryKay Kelley*

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MaryKay Kelley

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