

<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>PINARK, LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 64940</b></p>
<p><b><i>AMENDED ORDER</i></b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 28, 2015, James R. Meurer and MaryKay Kelley presiding. Petitioner was represented by Mark Osborn, Esq., part owner. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is requesting an abatement/refund of taxes on the subject properties for tax year 2012.

Subject property is described as follows:  
**Douglas County Schedule Nos. R0473945, R0473946, R0473947 and R0473948.**

The subject property consists of four vacant and platted, commercially-zoned lots in the Castle Pines North Subdivision. Located one-plus mile west of I-25, they are bordered by Castle Pines Parkway on the south and Monarch Boulevard on the east. Schedule numbers and gross square feet per plat are as follows:

Schedule Number	R0473945	Lot 1	72,207 sq.ft.
Schedule Number	R0473946	Lot 2	79,196 sq.ft.
Schedule Number	R0473947	Lot 3	83,006 sq.ft.
Schedule Number	R0473948	Lot 4	41,696 sq.ft.

Respondent assigned an actual value of \$1,575,244 for tax year 2012 but is recommending a reduction to \$1,495,532. Petitioner is requesting a value of \$1,052,522. Assigned, recommended, and requested values are as follows.

Subject Lots	Assessor's 2012 Actual Value	Respondent's Recommended Value	Petitioner's Requested Value
Lot 1	\$365,019	Same	\$302,246
Lot 2	\$500,252	\$500,250	\$382,417
Lot 3	\$472,490	Same	\$270,552
Lot 4	\$237,482	\$158,072	\$ 86,310

Mr. Osborn testified that utility easements, roads, and sloping terrain significantly impacted each of the subject lots by diminishing buildable terrain. Utility easements impacted Lot 1 by 10%, Lot 3 by 25%, and Lot 4 by 33%. Paved roads, none of which have been deeded to governmental or private entities, encompassed 10.4% of Lot 1, 7% of Lot 2, 16.3% of Lot 3, and 40.5% of Lot 4.

Mr. Osborn presented four comparable sales ranging in price from \$4.02 to \$6.89 per square foot, the average being \$5.19. He applied the average to each of the four sites and thereafter made adjustments for the negative impact of their utility easements, grading, road frontage and visibility, and shape. He concluded to adjusted values of \$4.67 (Lot 1), \$5.19 (Lot 2), \$3.89 (Lot 3), and \$3.48 (Lot 4) per square foot.

Respondent's witness, Stephen M. Snyder, Certified General Appraiser for the Douglas County's Assessor's Office, presented a Market Approach with six comparable sales ranging from \$8.48 to \$17.24 per square foot. He applied qualitative comments but no adjustments. Concluding to a mean of \$12.13 and a median of \$11.93, he considered Sale Three (\$10.13 per square foot) to be most similar and reconciled to a value of \$10.00 for Lots 1, 2 and 3. He applied a 40% adjustment to Lot 4 due to its steep topography and extreme shape, reconciling to a value of \$6.00 per square foot.

Mr. Snyder applied present worth discounting to the subject lots. With an absorption rate of six years and a blended discount rate of 15%, he concluded to a present worth of 63.07% or \$6.31 per square foot for Lots 1, 2 and 3 and \$3.78 per square foot for Lot 4.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2012 valuation of the subject property was incorrect.

The Board finds that Respondent's sales are better comparables. Petitioner's sales included numerous factors that negatively influenced marketing and value. Power lines and drainage issues affected 34% of Petitioner's Sale 1's lot. Flood plain and Prebles Mouse Habitat impacted 22% of Petitioner's Sale 2's lot. Petitioner's Sale Three had an extremely narrow configuration (580 feet long by 97 feet wide), remote location, distance from major roads and poor visibility, and severe topography (20% drop).

While persuaded that Respondent's sales are more representative of the subject lots, the Board notes the absence of any adjustments and is convinced that roads, utility easements, terrain, location and visibility should be addressed. A 10% adjustment is considered supported by testimony and evidence, which results in adjusted values of \$9.00 per square foot for Lots 1, 2 and 3 and \$5.40

per square foot for Lot 4. Present worth discounting concludes to values of \$5.68 for Lots 1, 2 and 3 and to \$3.41 for Lot 4.

**ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2012 actual value for the subject properties as follows; **\$365,019** for Lot 1 (the Board's recalculation at \$410,136 supports the BOCC value), \$449,833 for Lot 2, \$471,474 for Lot 3, and \$142,190 for Lot 4 for a total of **\$1,428,516**.

The Douglas 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 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-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 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 18th day of February, 2015.

**BOARD OF ASSESSMENT APPEALS**

  
James R. Meurer

  
MaryKay Kelley

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

  
Milla Lishchuk

