

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66479

Petitioner:

GLORIA F. HECTOR,

v.

Respondent:

SAN JUAN COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 21, 2016, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Kent D. Hector, agent for the Executrix of Gloria F. Hector's Estate, Carol Hector. Respondent was represented by Paul Sunderlund, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties agreed to the admittance of Petitioner's Exhibits 1, 2 and 3 and Respondent's Exhibit A.

Subject property is described as follows:

**Lots 13-22, Block 1, Taylor Addition, Silverton, Colorado
San Juan County Schedule No. 4829172010006**

The subject property consists of a vacant parcel located in the Taylor Addition of Silverton, Colorado. The 25,000-square foot residential site is undeveloped, with no water or sewer services at the site, and no access road to the property. The subject is located in the Blue Zone of the avalanche hazard zoning district.

Petitioner is requesting an actual value of \$55,000 for the subject property for tax year 2015. Respondent assigned a value of \$197,640 for the subject property for tax year 2015 but is recommending a reduction to \$150,000.

Petitioner's witness, Cherrie Lum, Certified Residential Appraiser, Lum and Associates, presented a market approach consisting of three comparable sales ranging in sale price from \$20,000

to \$142,400 and in size from 5,000 to 15,000 square feet. After adjustments were made, the sales ranged from \$42,400 to \$60,000. With a minimal number of available comparable sales, Ms. Lum relied on an extended base period. Sale 1 was described as the best sale, as it included three lots, in an undeveloped area, with no utilities. Sale 1 transacted on June 22, 2014 selling for \$20,000 but indicated a value of \$55,000 after adjustment. Sales 2 and 3 have street improvements, but Ms. Lum contends that the adjustment for street improvement is a subjective adjustment, that might require a greater adjustment compared to the adjustment for the extension of utilities. Ms. Lum also considered two listings, identified as Comparables 4 and 5. Based on an adjusted range of \$42,400 to \$60,000 represented by Petitioner's Sales 1, 2 and 3, Ms. Lum concluded to a value of \$55,000.

Based on her conversations with realtors, Ms. Lum testified that the Town has no immediate plans to install streets or utilities due to the costs associated; that there was a water tower above the subdivision and pumping station for sewer service; and that the lack of utilities had a major impact on the property values. Despite an extended discussion of the avalanche zone, Ms. Lum made no adjustment for this factor.

Mr. Hector contends that the site has a steep slope and land use restrictions, and that Respondent's appraisal does not give consideration to the subject's location in an avalanche zone.

Mr. Hector provided a list of 22 sales to the Board that had occurred between July 1, 2009 and June 30, 2014 that indicated a median value of \$13.38 and a mean of \$14.44 per square foot. No additional analysis or adjustment grid of these sales was provided for the consideration of the Board. Mr. Hector testified that Respondent did not adequately address the issue of the Avalanche Hazard Zone and its effect on the value of the subject.

Petitioner is requesting a 2015 actual value of \$55,000 for the subject property.

Respondent presented a value of \$150,000 for the subject property based on the market approach.

Respondent's witness, Maggie Love, Certified General Appraiser with William B. Love Appraisals, Inc., presented a list of 38 sales ranging in sale price from \$20,000 to \$240,000 and in size from 2,500 to 183,823 square feet, indicating a value of \$1.31 to \$26.67 per square foot. Ms. Love gave consideration to ten of the sales from the list, including Sales 1, 3, 6, 8, 9, 10, 21, 22, 37, and 38. Sales 3, 21 and 22 occurred beyond the statutory base period, in early-to-mid-2015.

Ms. Love provided a narrative describing her paired sales analysis. However, no adjustment grid was provided for consideration of the Board. Sales 37 and 38 were given the greatest consideration. Although both sales transacted during the extended base period, Ms. Love concluded that the market was stable, with no adjustment for market conditions (time) required. Sale 37 was given consideration for its location below the subject by approximately 120 to 150 feet. Sale 38 lacked utilities at the time of sale and was given the greatest reliance.

Ms. Love also testified that in her opinion the subject was a desirable property, located approximately 150 feet from utilities. In her opinion, development of the subject would not require

extension of utilities to the entire Taylor Addition. She expressed disagreement on what would need to be done to extend water, as the Town has not actually required extension of the mains, but the issue of water availability was not clear.

Respondent's witness, Kim Buck, County Assessor and Ad Valorem Appraiser, testified to Petitioner's sales and the potential effects on value associated with a location within the avalanche zone. Regarding Ms. Lum's sales, Ms. Buck testified that Petitioner's Comp. 1 was a clear outlier as it was located further from roads and utilities, was held in trust at the time of sale, and was a non-arms-length transaction for 50% of the asking price. Ms. Buck reported that Petitioner's Comp. 2 had an inferior location, ½ block from Silverton's main drag, and that there was no tap on the property. Ms. Buck referenced an analysis of sales that had occurred since 2005, 18 of which were located in the Blue Avalanche Zone, with no material effect on value identified. She further reported that residential vacant land on the edge of town typically sells for higher than the interior sales. Ms. Buck noted that Respondent's Sale 37 was partially located in the Blue Zone, and that there were homes being built in the Blue Zone. From this analysis, Ms. Buck concluded that the subject's location within the Blue Avalanche Zone had no impact on value.

Respondent assigned a value of \$197,640 for the subject property for tax year 2015 but is recommending a reduction to \$150,000.

After consideration of the cost, income and market approaches, the Board agrees with the parties that the market approach is the only reliable approach to value the subject, as vacant land. The Board was convinced that there were limited sales for consideration, and that quantitative adjustment was difficult.

Petitioner provided insufficient evidence to support its requested value of \$55,000. In cross examination, Ms. Lum appeared to be unfamiliar with the details concerning the subject related to actual costs of running utilities to each lot, the location of water and/or sewer line, Town requirements for putting in a street or whether the dirt track going to the subject property could be used as a drive-way. Adjustments to Sales 2 and 3 for utilities based on the number of lots, (i.e. 6 lots vs. 10 lots) under the assumption that Sale 3 would require 3 taps for 3 lots was unsupported. Ms. Lum reported but provided inadequate support for the Board to determine that it would not be financially feasible to use any of remaining Taylor Addition properties for development and that all the lots would need to be developed together to cover the costs of utilities to the area.

Sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended value. Although lacking in quantitative adjustment, Respondent's Sales 37 and 38 were found by the Board to be reliable in valuing the subject for ad valorem purposes.

The Board concluded that the 2015 actual value of the subject property should be reduced to \$150,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to Respondent's recommended value of \$150,000.

The San Juan County Assessor is directed to change their 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 7th day of September, 2016.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Sondra W Mercier

Sondra W. Mercier



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

Milla Lishchuk

Milla Lishchuk