

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SHANNON BUSS AND MARVIN CARDENAS,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 68239</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 10, 2016, Gregg Near and MaryKay Kelley presiding. Shannon Buss appeared pro se on behalf of Petitioners. Respondent was represented by Meredith P. Van Horn, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**8670 South Spruce Mountain Road, Larkspur, Colorado
Douglas County Schedule No. R0476617**

The subject is a vacant 12.35 acre parcel in downtown Larkspur. Utilities are available to the site. The western half of this rectangular-shaped parcel is predominantly level and available for development. The property drops steeply to Plum Creek, which bisects the parcel north to south. The eastern half is designated floodway (FEMA Flood Zone AE) and is non-usable. A small wooden shed located on the property is not valued.

Respondent assigned an actual value of \$363,127 for tax year 2015, which is supported by an appraised value of \$414,000. Petitioners are requesting a value of \$262,000.

Ms. Buss described the downtown core as small with a population designated as low income. With the annual Renaissance Festival generating the town's highest revenue, economic development is a priority, and incentives are commonly offered.

Ms. Buss described potential impacts on development of the subject parcel. Adjacent railroad tracks shake the ground, and train noise is significant. Also, the existence of the Preble's mouse, an endangered species, on the subject property may be a cause for limits on construction.

Petitioners presented four comparable sales ranging in sale price from \$152,000 to \$220,000 and in size from 5.01 to 13.41 acres. No adjustments were made to the sales. Ms. Buss compared the sale prices to their assigned values.

Ms. Buss requested a value of \$262,000 for tax year 2015. Without offering support for this value, she considered it to be "reasonable" and hoped that Respondent would "compromise."

Respondent presented a Market Approach with a value conclusion of \$0.77 per square foot or \$414,000.

Respondent's witness, Felice A. Entratter, Certified General Appraiser for the Douglas County Assessor's Office, testified that the subject parcel, while zoned commercial, was classified as residential (contiguous to the owners' dwelling) and taxed at the 7.96% rate. Highest and best use was considered to be commercial, and the parcel was valued as such.

Ms. Entratter presented five comparable sales ranging in sale price from \$161,400 to \$750,000 and in size from 1.96 to 25.74 acres. The transactions were selected for variety of features: proximity to I-25, road and utility access, flood zoning and the potential for future commercial development. After qualitative adjustments, Ms. Entratter placed greatest weight on Sales Two and Four (\$0.76 and \$0.87 per square foot, respectively) and concluded at \$0.77 per square foot.

Ms. Entratter agreed with Ms. Buss's general description of the town and confirmed that incentives were offered to spur commercial development. She also noted that many income levels existed in the town, among them low income. Ms. Entratter declined use of Petitioners' comparable sales, all of which were residential sites and not representative of a commercial parcel.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

The Board agrees with Respondent's valuation of the subject as a commercial parcel; Petitioners' residential comparable sales, therefore, are not valid comparisons. The Board finds that Respondent's comparable sales represent the market.

The Board can consider an equalization argument if evidence or testimony is presented showing that the assigned value of the equalization sales was derived by application of the market approach. Since that evidence or testimony was not presented, the Board gives limited weight to Petitioners' equalization argument. *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14 (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.

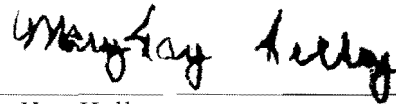
Section 39-8-108(2), C.R.S.

DATED and MAILED this 25th day of May, 2016.

BOARD OF ASSESSMENT APPEALS




Gregg Near



MaryKay Kelley

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



Milla Lishchuk

