

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TROUT CATTLE LLC,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71443</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 17, 2018, Gregg Near and MaryKay Kelley presiding. Petitioner was represented by Roger R. Trout, one of three members of the LLC. Respondent was represented by David Ayraud, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**4447 Forest Service Circle, Red Feather Lakes, Colorado
Larimer County Schedule No. R0010456**

The subject cabin is a 1,255 square-foot raised ranch design with an unfinished 864 square-foot ground level basement. The cabin is serviced by well and septic, heated by a wood stove, and is without electric service. It was built in 2004 on a 35-acre site in the Sand Creek Park Subdivision. Annual Homeowner Association dues of \$70 pay for maintenance of interior roads and fishing rights for ten miles of streams and 30-40 ponds.

Respondent assigned a value of \$227,700. Petitioner is requesting a value of \$78,624.

Mr. Trout described the area which is located in the rural northern part of the county near the Wyoming border. Terrain is mountainous (8,000 to 10,000 feet). The predominant residence is a cabin or trailer. Summer-only use is most common, in part due to difficult access. County roads are designated Category 6 (high mountain range), are minimally maintained, and services are limited (no public utilities or electric grid). Homeowners, especially year-round occupants, find travel easier on Wyoming roads despite longer distances.

Mr. Trout compared the area with more populated areas such as Ft. Collins, Loveland, and Estes Park, which enjoy utilities, fire and police protection, public transportation, road maintenance, trash removal, and so forth. He argued that Respondent's appraisal should have included a 50% deduction for lack of these services.

Mr. Trout estimated the value of his fishing rights and interior road maintenance in the subdivision at \$16,030. He compared the fishing rights with the Rio Grande Club & Resort in Southern Colorado, which offers membership options for fly fishing and other activities. This figure, in his opinion, should be deducted from the sale price of the property.

Mr. Trout testified that the 2015 sale price of the subject included personal property, which he estimated at \$41,722. This figure, in his opinion, should be deducted from the sale price of the property.

Mr. Trout calculated his \$78,624 value as follows: \$215,000 (2015 sale price) minus \$16,030 (estimated value of fishing and road maintenance) minus \$41,722 (personal property) for a total of \$157,248 reduced by 50% (tax burden relative to lack of services).

Mr. Trout agreed with Respondent's use of the subject sale in his market analysis. However, he disputed Respondent's adjustments for value increase. He argued that neither explanation nor support was provided for the 6% and 22% adjustments for the subject and second comparable sale, respectively.

Respondent's witness Jeremy W. Jersvig, Ad Valorem Appraiser for the Larimer County Assessor's Office, presented a Sales Comparison Approach with two comparable sales, one being the 2015 sale of the subject itself for \$215,000 and the other a 2013 sale for \$230,000. The subject was adjusted solely for market conditions (increasing values) for an adjusted value of \$227,707. The second sale was adjusted for market conditions (increasing values), for size, for its garage, and for age for an adjusted value of \$345,991. Mr. Jersvig gave greater weight to the sale of the subject, concluding to a market value of \$227,700.

Mr. Jersvig disagreed with Mr. Trout's interpretation of his fishing rights, his estimation of their value, and their deduction from the 2015 sale price in his calculation of market value. He explained that the subject's fishing rights "run with the land" and are included in purchase price. They are different from membership rights described in Exhibit 16's Rio Grande Club & Resort in which membership, exclusive of land, includes fishing, golf, and other activities.

Mr. Jersvig found no support for Mr. Trout's deduction for road maintenance in his valuation. He stated that maintenance of subdivision roads is included in Homeowners' Association dues and should not be independently valued.

Mr. Jersvig disputed Mr. Trout's \$41,722 estimate for personal property. He referenced Exhibit 17, the Bill of Sale for Petitioner's 2015 purchase, in which a consideration of \$10 was paid as part of the sale of real estate.

Mr. Jersvig testified that his adjustment for value increase was calculated by an analyst and that the model was approved by state audit. He was unable to define the adjustment.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

Section 39-1-103(8)(a)(I), C.R.S. indicates: "Use of the market approach shall require a representative body of sales, including sales of a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes."

The Board places no reliance on Petitioner's calculation of value. It conforms neither to statute nor acceptable appraisal methodology and does not meet the statutory requirement of a market approach.

With regard to line items within Petitioner's calculation, the Board finds as follows: the subject's fishing rights run with the land, are included in the \$215,000 sale price, and should not be deducted from the sale price; Homeowners' Association dues include maintenance of the subdivision's interior roads and should not be deducted from the sale price; personal property, designated at \$10 at time of sale, cannot later be re-defined and deducted from value; and Petitioner's taxes pay for services rendered and cannot be compared with areas that have more services and higher taxes.

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for various characteristics. While it is standard appraisal practice to present at least three comparable sales, the witness testified he was unable to identify more, and Petitioner presented no comparisons for the Board's review.

The Board acknowledges Petitioner's questions about Respondent's market adjustments for value change in the base period. Adjustments should not appear to be concealed. While market adjustments are calculated by an analyst, some explanation is warranted.

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).

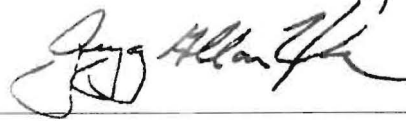
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 5th day of June, 2018.

BOARD OF ASSESSMENT APPEALS

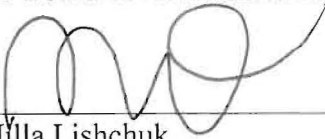


Gregg Near



MaryKay Kelley

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



Milla Lishchuk

