

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>WENDELL R. AND ANDREA A. HUGGINS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 71834</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 22, 2019, Diane M. DeVries and Samuel M. Forsyth presiding. Petitioners were represented by Jordan C. May, Esq. Respondent was represented by Jason W. Soronson, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Petitioners' Exhibits 1 – 6 and Respondent's Exhibit A and Rebuttal B were admitted.

Subject property is described as follows:

**3402 Avenue C  
Kittredge, CO 80457  
Jefferson County Schedule No.: 300012473**

The subject property is a vacant land parcel consisting of 21,954 square feet. The subject site was reportedly zoned in 1920. As of the assessment date, the subject property had two zoning designations. The zoning of the part of the site that fronts Avenue C is MR-3 (Mountain Residential Three) and comprises approximately 2/5<sup>th</sup> of the total area. The rear of the site is zoned C-1 (Commercial One). The surrounding sites are developed primarily with detached single-family homes. The subject lies within the FEMA 100 Year Event Floodplain Zone AE.

The Petitioners were not clear in their documentation nor testimony what they believe the subject property is worth nor what value they request the Board to conclude to for tax year 2017. Three values are referenced by Petitioners: \$1,000 on the Petition to the State Board of Assessment

Appeals, as well as \$0 and \$30,000 during the course of the hearing. Respondent assigned a value of \$77,112 for the subject property for tax year 2017 which is supported by an appraisal presented at the hearing for \$80,000. Respondent is asking the Board to sustain the assigned value of \$77,112.

Petitioners presented as their first and sole witness, Wendell R. Huggins. Mr. Huggins testified he purchased this property in 1978 and believed it would be a good property to develop. He testified that a prospective buyer put the property under contract. Prior to closing, the parties agreed that the owner would lay a concrete foundation for the future development. The contract fell through. The concrete foundation remains. Mr. Huggins testified that he has had the property listed for sale for the past 9 years and has received only one offer of \$30,000 which proposed development of self-storage units and a residence. This contract did not result in a finalized sale. Mr. Huggins testified that the current mixed zoning has prevented any interest in the property along with the fact that the current zoning designations of MR-3 and C-1 allowing high density residential and commercial are incompatible with the neighborhood. Any development proposals consistent with the current zoning have been met with resistance from the local municipal zoning and planning staff. Mr. Huggins testified that he has not attempted to have the property rezoned and replatted due to the cost as well as the concern that the attempt to do so would not be successful.

Petitioners provided no appraisal exhibits or expert appraisal testimony. The sole market data presented was a printout from the Jefferson County Property Records Search data base of a vacant land property that sold for \$165,000 in June of 2016. The size of the sale was 2.876 acres or 125,279 square feet. The unadjusted sale price was \$1.32 per square foot. At that sale price per square foot, the Petitioners believed that the subject property, at 21,954 square feet, should not be worth more than \$28,915.

Respondent presented an appraisal concluding to a value of \$80,000 for the subject property based solely on the market approach.

Respondent presented Micah Hayward, Colorado Licensed Certified Residential Appraiser, employed by the Jefferson County Assessor's Office. Respondent presented an appraisal report and after considering the statutorily mandated three approaches to value, determined the cost and income approaches were not appropriate and relied solely on the sales comparison (market) approach. Respondent applied a highest and best use analysis to determine a zoning of the subject that would yield the highest return to the land. Utilizing the 4-point test for highest and best use that is: (1) physically possible; (2) legally permissible; (3) financially feasible; and (4) yields the highest value to the land, Respondent concluded that the highest and best use of the property was to convert the zoning to single family residential. Based on the highest and best use determination, Respondent identified 5 vacant land comparable sales with single family residence zoning. Respondent adjusted the sales for market condition (time), site size, utilities to site, flood zone (subject is in flood zone, none of the comparables are), view amenities, and the fact that there is a foundation on the subject site. After adjustments, the range of value of the comparable sales was \$74,554 to \$103,618.

Respondent then identified 3 improved comparable sales. The selection criteria for the sales were that the sale dates are timely under the statute, the sales are proximate to the subject, and the sales have improvements similar to the character of the improvements surrounding the subject site.

After adjustments including deduction of the replacement cost new less depreciation cost for the improvements, site size and flood zone, the range of value for the three comparable sales was \$79,633 to \$120,632.

Respondent assigned an actual value of \$77,112 to the subject property for tax year 2017.

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

In a *de novo* BAA proceeding, a tax payer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessments Appeals v. Sampson*, 105 P.3d 198, 202, 208 (Colo.2005). After considering all the testimony and evidence the Board concludes Petitioners did not meet this burden.

Petitioners provided no appraisal. The one sale offered by Petitioners to the Board was not sufficiently described and there were not adjustments. Even if the Board were to consider Petitioners' single sale; a single sale does not make a market and is not sufficient to establish a value in this instance. The Board finds Respondents' appraisal provides compelling data and analysis to substantiate the value of the subject property.

## **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.

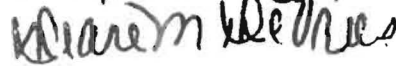
If the Board does not recommend its decision to be a matter of statewide concern or to have

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 12th day of March, 2019.

**BOARD OF ASSESSMENT APPEALS**

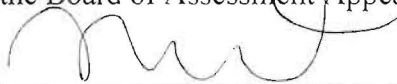


Diane M. Devries



Samuel M. Forsyth

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



Milla Lishchuk

