

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PINE RIDGE RESIDENTIAL LLC,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 74259</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 24, 2019, Debra Baumbach and Cherice Kjosness presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Christina McCormick, Esq. Petitioner is protesting the 2018 actual value of the subject property.

Petitioner’s Exhibits 1 and 2 and Respondent’s Exhibits A-T were admitted into the evidence. The parties stipulated to the expert qualifications of Petitioner’s witness, Mike Shafer, and Respondent’s witness, Gina Ritter.

Subject property is described as follows:

**Three parcels of Vacant Land
Park County Schedule Nos. R0047544, R0047545, R0047546**

The subject property consists of a total of 378.338 acres of vacant land in the northeast corner of Park County, bisected by Highway 285. A deed recorded at Reception Number 611236 on March 21, 2005 divided the acreage into three separate parcels: R0047544 containing 95.15 acres; R0047545 containing 98.758 acres; and R0047546 containing 184.43 acres.

Petitioner is requesting a total actual value of \$1,236,408 for the subject property for tax year 2018. Respondent assigned a total value of \$2,026,944 for the subject property for tax year 2018, but is recommending a decrease to \$1,895,165.

Petitioner's witness, Mike Shafer, testified that he believes that the county assessor has overvalued the subject property. According to Mr. Shafer, the assessor has inappropriately valued the property for tax year 2018 higher than for tax year 2017. Mr. Shafer pointed out that Colorado statute requires the values for an intervening year (2018) to match those in the reappraisal year (2017), unless there is an "unusual condition." It is Mr. Shafer's contention that no statutory unusual condition existed to justify the increase.

In addition, he believes that, although the subject parcels are identified by separate legal descriptions, the proper way to value the subject is as one parcel of 378.338 acres. He testified that all three parcels are vacant raw land with no roads, infrastructure, or utilities and have very similar topography.

Further, Mr. Shafer questioned Respondent's valuation of 22.32 acres of parcel R0047545 as "commercial vacant land." He testified that the platted subdivision that created a designated area for commercial development has been rescinded, and there are no improvements with commercial use. He especially took issue with the sales that Respondent's appraiser used to value the area designated as commercial vacant land. While the area is 22.32 acres, 9 of the 13 sales in Respondent's report are less than one acre. According to Mr. Shafer, the price per acre increases as the size of the parcel decreases, so using such small parcels to establish the value of a much larger parcel is not appropriate.

Mr. Shafer submitted a report with 10 sales of vacant parcels in Park County economic areas 1,5,6,7 and 8 which occurred between March of 2012 and May of 2016 and ranged in size from 132.45 acres to 1,972.79 acres. The sale prices ranged from \$500 to \$4,085 per acre. These were also the sales used by Respondent's appraiser. All sales fell within the 5-year extended statutory data gathering period. Mr. Shafer testified that when determining a value per acre for the total of 378.338 acres, he used only sales 8, 9 and 10 as these were the most recent sales. He made size adjustments of -20% to sales 8 and 10 and -10% to sale 9. He made these adjustments to account for the reverse relationship of size to price per unit. He made no other adjustments. As sale 8 was in the same economic area as the subject, he placed all the weight on this sale and concluded to a value of \$3,268 per acre for a total value of \$1,236,408.

Under cross examination, Mr. Shafer testified that no adjustments were required for access, topography, tree cover, view, water, or any utilities. He also testified that the bisection of the subject parcels by Highway 285 or the three different legal descriptions did not prevent the assignment of a single value per square foot for all three parcels. In answer to a question from the Board, he testified that he based his percentage adjustments for the land size on his extensive appraisal experience and observance of market trends.

Respondent's witness, Gina Ritter, a licensed real estate appraiser with the Park County Assessor, presented a value of \$1,895,165 for the three subject parcels based on the market approach. The value is broken down as follows:

R0047544: \$361,573
R0047545: \$364,752 (residential)

\$552,272 (commercial)
R0047546: \$616,568

Respondent presented 3 separate sale comparison grids for each of the three residential vacant parcel values. The sales were the same as those in Mr. Shafer's report, but were selected in various combinations as the best comparables for each subject parcel. Adjustments were made for differences in size, access, topography, tree cover, view, live water, desirability, and installed electric utility. Ms. Ritter presented paired sales analysis in support of each of the adjustments.

Ms. Ritter did not present a grid for the value of the commercial portion of parcel R0047545. She testified that there were no sales of vacant commercial land of similar size to the subject during the extended statutory data gathering period. She concluded to a value of \$24,833 per acre for the 22.32-acre parcel for a total of \$552,272.

Regarding the change in the intervening year, Ms. Ritter testified that parcel R0047545 was valued higher for tax year 2018 than for 2017 on the basis of the "omitted property," which is one of the statutory unusual conditions. In 2017, the commercial portion was assigned a value based on incorrect size of 17.88 acres. The correct size is 22.32 acres. The difference in the 2017 value and the value being requested for 2018 is due to a typographical error in the size of parcel R0047544.

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 202, 208 (Colo.2005). Mr. Shafer presented no documentation to support his percentage adjustments for size. Neither did he make adjustments for differences in characteristics which Ms. Ritter's report clearly demonstrated were appropriate through paired sales analysis.

Further, Mr. Shafer offered insufficient support for valuing three parcels with separate legal descriptions as one unit. The Board finds that the three subject parcels were sufficiently distinct to warrant separate valuations for each. The parcels varied with respect to their location in relation to Highway 285; highway access; zoning and size.

While Colorado law allows valuation of multiple parcels together if they are likely to sell as one unit, the considerable distinctions between the three parcels indicate that they would most likely be sold separately. As for the propriety of valuing a portion of parcel R0047545 as commercial, the zoning process is completely separate from the subdivision platting process. While the area of the zoning was determined by the plat, the rescinding of the plat would not necessarily change the zoning. In the absence of a rezoning order, the assessor is justified in determining a highest and best use as vacant commercial.

ORDER:

Respondent is ordered to reduce the subject's 2018 value to Respondent's recommended value of \$1,895,165.

Park County Assessor is directed to update 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 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 February, 2019.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Cherice Kjosness

Cherice Kjosness

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

Milla Lishchuk

Milla Lishchuk

