

**STATE OF COLORADO
COUNTY OF ROUTT**

**OFFICE OF THE CLERK
July 29, 2019**

Commissioner Beth Melton, Chair, called the meeting of the Routt County Board of Equalization to order. Commissioner Tim V. Corrigan and Commissioner Doug B. Monger were also present. Deanna Sanchez recorded the meeting and prepared the minutes.

The details of this hearing can be found in the Board of County Commissioners (BBC) Work Session Meeting Agenda and Packet for July 29, 2019 document in the Commissioners' Work Sessions Agendas section of the Routt County Website, along with the meeting audio.

EN RE: ROUTT COUNTY BOARD OF EQUALIZATION

Gary Peterson, County Assessor; Kevin Krause, Angela Finnegan, Ryan Gelling, Robin David, Cathy Hutchinson, Davana Robson, and Susan Siggson, County Appraisers; William Jameson and Evzena Jameson, Petitioners; Mikaela Rivera, WAAS Campbell Rivera; David Clayton, Real Estate Appraiser; Christian Segner and Michelle Tarbell, Petitioners; were also present.

Commissioner Melton swore-in and advised those present of the rules by which this Board will consider valuations.

Commissioner Melton stated the issue of today's proceeding is property valuation for assessment purposes, not property taxes. No discussion of taxes will be allowed. The Petitioner has the burden of proving, by a preponderance of the evidence, that the Assessor's value is incorrect. Where the comparable sales method is used, state statute provides that the Assessor will determine value based on sales during the 18-month period ending June 30, 2018. Sales may also be considered in 6-month periods immediately preceding the 18-month period, up to 5 years, if there are insufficient sales to obtain accurate comparable valuation data. Smaller Counties commonly use a 24-month period in order to obtain sufficient comparable sales data better demonstrates the change in value from the prior level of value, June 30, 2016. The 24-month period also eliminated seasonality in the sales data. Routt County uses a 24-month period. The Petitioner and the Assessor should not discuss sales post June 30, 2018, except in cases when it can be demonstrated that a contract for sale was completed prior to June 30, 2018 and closed after June 30, 2018 according to the original contract. Under Colorado law, the present value of your property cannot be considered. The Petitioner shall present his/her evidence first and shall have the opportunity to cross examine the representatives from the Assessor's Office after they have presented their evidence. The decision of this Board may be appealed and we will refer to that after the decision/motion has been made.

R6251233 JAMESON, WILLIAM G. & EVZENA K.

Mr. Jameson and Mrs. Jameson stated their appeal. The focus of their case was the failure of the Assessor's office to assess Winterwood units in a fair and equitable manner. They believe the Assessor's valuation of Winterwood units 5, 12, and 16 at \$435,600 and Winterwood

unit 13 at \$435,600 is unfair and inequitable. Winterwood units with a major remodel cannot be compared to units without a major remodel. Had the Assessor's office conducted a field inspection of Winterwood prior to January 1, 2019, the modifications to the exterior of units 5, 12, and 16 would have been observed. Units 5, 12, and 16 are the only Winterwood units with a fireplace vented through the exterior wall. The modifications to the exterior of units 5 and 12 is clear evidence that the extensive modifications to the fire place and the addition of the two windows shown in the 2019 listing photos, were made prior to the assessment date. Unit 5 was listed on January 19, 2019. From the Assessor's report the Jameson's believe the Assessors must have assumed the extensive remodel of unit 5 was done between January 1, 2019 and January 19, 2019, which is an impossible expectation. The 2019 listing photos are clear evidence of the condition of Unit 5 on January 1, 2019 in the absence of evidence to the contrary.

Mr. Jameson continued that the same goes for unit 12. It was listed on April 14, 2019. The Assessor's report presumes that the remodel was done between January 1, 2019 and April 14, 2019. The 2019 listing photos are clear evidence of the condition of unit 12 on January 1, 2019 in the absence of evidence to the contrary.

Ms. David stated the appraisal date is June 30, 2018 and the assessment date is January 1, 2019. As of January 1, the Assessor's Office was not aware of the condition of units 4, 5, 8, 12 & 16 either because the property was not listed or because there was not a recorded permit that indicated any type of remodeling was completed, or those remodels were not even started / completed as of the January 1 assessment date.

The petitioner is arguing the valuation of units that had been remodeled and not that of their own unit. Unit 10 was the only known remodeled unit as of January 1, 2019 and therefore it received the grade modifier. Unit 10 is valued higher than all other units at Winterwood due to the known remodeled condition. All other units were valued based on the sales that occurred. Ms. David offered to inspect the petitioner's property in order to see how it compared to the sales that occurred. An appointment was set for June 10th, however during the second in-person discussion, the petitioner said "there was no point in coming to view his property". The appointment was promptly cancelled. An email was sent to the petitioner indicating that if he wanted to keep the appointment, we could do so; there was no response. It was expressed to the petitioner that the appeal should discuss specific differences between the subject and the sales used in the valuation in order to determine if there is reason to adjust the subject's value. Since an inspection was not completed, the assumption was made that the subject was similar to the sales. Based on the sales, the valuation was supported, and the petitioner's appeal for a change in value to \$417,938 or \$393.01/sf was denied.

MOTION

Commissioner Corrigan moved to deny the petitioner's request and uphold the appraiser's valuation of \$435,600 in the matter of R6251233.

Commissioner Monger seconded; the motion carried 3-0.

STORM MOUNTAIN (VARIOUS)

Ms. Rivera stated the owners of the Storm Mountain parcels are appealing the Assessor's determination of valuation. These parcels each contain a one acre non-integral residential component. This appeal relates to the Assessor's valuation of the non-integral portion of the property only. The Assessor's Reference Library (ARL) was recently amended to provide guidance to Assessors valuing non-integral parcels. Specifically, the ARL states, "In the case of non-integral residential land within an agricultural parcel, Assessors should use the comparable sales of similarly sized residential parcels to value the non-integral portion." This amendment to the ARL was added after the Board of Assessment Appeals (BAA) and Court of Appeals ruled on a prior appeal of the same Storm Mountain parcels. In the prior case, the BAA determined that it was proper to determine the value of the 1 acre portion by first valuing the entire parcel and then apply the pro rata valuation to the 1 acre site. The Court of Appeals agreed with this valuation methodology.

The Property Tax Administrator disagreed with the BAA valuation and proposed amending the ARL to mandate a new valuation approach. Prior the ARL amendment, representatives of Storm Mountain and Ms. Rivera met with Joann Groff, the Property Tax administrator, about the amendment and its intended operation. Ms. Rivera attended and participated in a hearing before the Statutory Advisory Committee to the Property Tax Administrator and a hearing before the State Board of Equalization. At these meetings and in the hearings, it was made clear that because non-integral parcels are less than 2 acres, the non-integral parcels should be valued using a market approach in similarly sized comparable sales. The Property Tax Administrator believed it was improper to use larger lot sales to value the non-integral portion and the amendment was drafted to preclude use of the larger lot sales.

Alternatively, if the larger sales are used, there must be an adjustment or allocation of the per acre size to appropriately derive the value of the 1 acre non-integral portion of the Storm Mountain Lots. In other words, these large acreage sales could be used to derive a per acre value to determine the value of the 1 acre non-integral parcels at Storm Mountain. This analysis was performed by David Clayton as well. On a per acre basis, the large lot sales indicate a value of \$190,000 for the Storm Mountain non-integral parcels. This value indication is similar to Mr. Clayton's conclusion of the non-integral value using the 1-2 acre lot sales.

In summary, given the ARL directive to use sales of similarly sized residential parcels to value the non-integral 1 acre portion, Ms. Rivera believes the value of the Storm Mountain non-integral portion should be determined using the 1-2 acre lot sales, not 5 and 6 acre lot sales. Therefore, Ms. Rivera requested the BOE determine the value of the non-integral portion of the Storm Mountain parcels as indicated in Mr. Clayton's appraisal.

Ms. Finnegan stated there were no vacant land sales in unincorporated Routt County less than 2 acres in size, considered comparable to Storm Mountain Ranch (SMR), selling during the 2019RA data collection period. Therefore, the Assessor's office expanded their search to slightly larger acreage land sales of comparable properties they believed would effectively compete with the Storm Mountain properties. This included Catamount Ranch (1 sale), Cabins at Lake Catamount (0 sales), Alpine Mountain Ranch (2 sales), Agate Creek (1 sale), Dakota Ridge (2 sales), and Priest Creek Ranch (0 sales). Marabou is also a very comparable subdivision with superior amenities, however sales were chosen from subdivisions

that have either limited or no common elements, or in the case of the Catamount sales, the required membership to access their special amenities are not included in the sale prices.

The petitioners request that the Assessor's office strictly use sales of parcels less than 2 acres; asserting that the Assessor's office is required by the Assessor's Reference Library (ARL) to only use over 2 acre lot sales. This is incorrect, and was confirmed by the (DPT's) Deputy Tax Administrator, Curt Settle, on 7/18/2019. The DPT's response was that if there are no sales of comparable and competing properties that are near the 1-2 acre size range of your subject building envelopes during the data collection period or in the 5 years preceding the effective appraisal date, then larger acreage sales considered comparable competing properties to the subject(s) can be used but adjustments should be made for the surplus acreage. This is precisely what the Routt County Assessor's office did for the 2019 reappraisal for the 624 accounts that have building envelopes being valued in Routt County. Surplus Land is defined as additional land that cannot be developed separately and does not have a separate highest and best use. A downward adjustment of 35% was applied to adjust for surplus acreage in those less than 2 acre sales. This adjustment was based on historical ratio studies. Nowhere does the ARL, nor statute, state or require Assessors to use comparable sales sized 2 acres or less as the petitioner ardently implies. What is required from statute §39-1-102(14.4)(a) is that the portion of land considered to be non-integral land (building envelope) that is being reclassified to Residential from the larger AG classified parcel must be 2 acres or less. This language is defined in statute for both "Residential Land" as well as in the definition for "Agricultural Land" under §39-1-102(1.6)(a)(I)(A).

For the sake of argument and entertainment of the petitioner's insistence that only less than 2 acre sale comparable sales should be utilized in development of the non-integral building envelope values, along with the methodology that a price-per-acre valuation be applied, a method 2 was developed. Given this is tiny rural residential acreage at less than 2 acres where the typical rural parcel is 35 plus acres, such small rural, vacant acreage sales are unique and few in existence within the market area of SMR. This uniqueness to the market would require the Assessor to look back the full 5 years in sales data.

Method 2 states the best comparable subdivision with small (less than 2 acre) lots to Storm Mountain Ranch is Cabins at Lake Catamount. Lots here average 0.4 acre per lot. Although there were no sales in the Cabins at Lake Catamount Subdivision for the 2019 reappraisal, Lot 9 (0.42 acre) and Lot 10 (0.40 acre) sold for a combined price of \$1,398,000 (\$649,000 (Lot 9) and \$749,000 (Lot 10) per lot). Per the MLS listing, the Catamount membership was not included for either Lot. These are the only 2 sales where available amenities and development density make these Lots potential competing properties to a 1-2 acre building envelope within SMR.

Time trend analysis for vacant land in Economic area 2 was not statistically significant for either the 2017, nor the 2019 reassessments. These 2 qualified valid sales support a value of \$649,000 to \$749,000 for 0.40 acre. Using these sales for a site value for SMR supports a value of \$700,000 or greater. Using these sales and a price-per-acre methodology as the petitioner is requesting, supports a value of \$1,545,000 to \$1,875,000 for 1 acre. Historical sales of vacant land sales within Storm Mountain Ranch demonstrates that the subject subdivision does not sell on a price-per-acre basis and therefore should not be analyzed as such.

The Assessor's office recommends denying the petitioners' requests for lowering the values on their building envelopes, while upholding the current valuations or adopting method 2 above, while still relying on a site value (not a dollar per acre value). R8164278 does not have a building envelope applied, it is agricultural land with no improvements and therefore is not subject to HB11-1146 and the non-integral building envelope, as there is no 'occupant' to the property. It is recommended that this account be denied in a separate motion. R8164280 is protesting their building envelope value as well as their house value. The appeal of the house itself has been addressed separately from the collective SMR appeal on the 13 building envelopes and has since been stipulated to an agreeable adjustment to both Assessor and petitioner.

MOTION

Commissioner Monger moved to deny the petitioner's 14 appeals and maintain the current Assessor level of envelope values in the matter of R3205567 for \$390,000, R8165860 for \$330,000, R8165355 for \$330,000, R8164275 for \$600,000, R8164276 for \$600,000, R8164279 for \$600,000, R8164281 for \$660,000, R8165857 for \$600,000, R8164283 for \$630,000, R8164284 for \$540,000, R8164285 for \$684,000, R8165318 for \$708,000, R816280 for \$510,000, and R8164278 for \$0.

Commissioner Corrigan seconded; the motion carried 3-0.

RYAN INNOVATIVE SOLUTIONS R8164666 and R8173634

Mr. Segner stated he wished to withdraw the appeal for R8173634. The value on the NOD petitioner appeal for R8164666 was a clerical error. The actual value they would like to request is \$2,507,460. The subject property of R8164666 is valued in excess of fair market value based on the 3 approaches to value; cost, market, and income. In addition, the property is valued in excess of other similarly situated properties.

Ms. Finnegan stated at Assessor-level appeal, petitioner appealed accounts R8164666 and R8173634 together. The petitioner combined the Assessor's values for the 2 accounts. The petitioner provided 1 sale from Zillow.com R8164679 that sold on 8/3/16 with a time adjusted sales price of \$2,553,000. Ms. Finnegan used this sale, along with other comparable sales from competing subdivisions in the review of the subject's 2019 valuation. The subject's valuation fell within the indicated range based on comparable sales and the appeal was denied.

At CBOE appeal level, the petitioner provided no additional comparable sales and requested a value of \$1,554,625 for R8164666. Ms. Finnegan requested to view the property by email on 7/18/19 and followed up with a phone conversation requesting to inspect property on 7/23/19. The property owner never called or emailed to set up a time, so Ms. Finnegan was unable to view the interior of the subject property.

MOTION

Commissioner Corrigan moved to deny the petitioner's request and uphold the Assessor's value at \$3,826,180 in the matter of R8164666.

Commissioner Monger seconded; the motion carried 3-0.

RYAN INNOVATIVE SOLUTIONS R8163677

Ms. Tarbell explained how she calculated the valuation for the properties. She added the subject property is valued by the Assessors in excess of fair market value based on the 3 approaches to value; cost, market, and income. In addition, the property is valued in excess of other similarly situated properties.

Mr. Krause stated at Assessor-level, the petitioner's agent, Ryan, LLC filed an appeal requesting an adjusted value of \$5,400,000. During an Assessor level phone conversation with tax agent Michelle Tarbell, she requested an updated adjusted value of \$6,000,000. For the CBOE, the agent has again request a value of \$5,400,000. Both requested amounts are lower than the 2017RA BAA stipulated value of \$6,750,000. The agent states, "The subject property is valued in excess of fair market value based on 3 approaches to value; cost, market, and income. In addition, the property is valued in excess of other similarly situated properties." The petitioner purchased the subject property on November 16, 2015 for \$7,000,000 with an adjusted sales price of \$6,699,000.

MOTION

Commissioner Corrigan moved to deny the petitioner's request and maintain the current Assessor level of value in the matter of R8163677 in the amount of \$6,735,690.

Commissioner Monger seconded; the motion carried 3-0.

No further business coming before the Board, same adjourned sine die.

Kim Bonner, Clerk and Recorder

M. Elizabeth Melton, Chair

Date