

The Board of County Commissioners met in special session on July 30, 2008. Those present for the session were K. Keith Meinert, Chair; Don Batchelder, Vice-Chair; Heidi Albritton, Member; Mary Deganhart, County Attorney; Connie I. Hunt, County Administrator; and Linda Munson-Haley, Deputy Clerk of the Board.

- **Note – This meeting was recorded for reference purposes.**

9:06 The Board of County Commissioners convened as the Board of Equalization to consider the following property valuation appeals:

Commissioner Meinert convened the Board of Equalization and opened the public hearing.

**A. 9:06 1. Property Owner: Robert P. Lake
Schedule Number: R003382**

Robert P. Lake, Petitioner, was present. Raelene Freier, Chief Deputy Appraiser, and Dennis Michaud were present from the Assessor's Office. All parties were sworn in.

Commissioner Meinert noted for the record that Robert Lake's estimate of value was \$650,000 as opposed to the Assessor's valuation of \$1,387,640. He asked Mr. Lake if he wanted to give testimony at this time.

Mr. Lake distributed information on several properties that he considered to be comparable (comp) properties (*Petitioner Exhibit A-1*) and explained that because he could not get on the Assessor's website because it was down he used MLS listings. The listing labeled #1 was more identical to his home. The Assessor's Office used a comp of a house on Log Hill that was a southwest style home and he did not feel that it compared to his home. The Assessor used another comp from CR 24 that had just been remodeled and had hay grass, arenas and irrigation water. He had no irrigation water and no landscaping. His house was stone veneer, not stone. It was also a limestone that was not a proven stone in this area and he did not know how long it would last. Another Assessor's Office determination was that he had excellent quality. The Assessor's memo stated that he had high-end appliances but because it also stated that he had denied them access to his house he did not know how they determined that he had high-end appliances. Of most concern to him were the comps. He felt that the amount listed on the comps was surely the selling price and not the assessed value. The taxes on those comps per square foot were almost identical to his property but the tax value the Assessor was putting on him was greater.

Commissioner Meinert noted that Mr. Lake's comp labeled #1 showed an asking price of \$1,590,000. Mr. Lake stated that his house was assessed at \$1.3+ million. He referred to the total taxes of \$3,966.64 on #1. In Mr. Lake's opinion this was a better quality home than his and was landscaped, but other than that the two properties were pretty similar. When asked to clarify his intention in using the comp he replied that the house was priced higher than his house yet it was assessed lower taxes. Commissioner Albritton clarified that Mr. Lake was focusing on the taxes not the value of the homes.

Mr. Lake advised the Board that he had spoken to an attorney. He had denied the Assessor's Office access to his house so they determined it to be excellent but somehow they saw into his house because they determined what appliances he must have. The attorney told him that the classification did not get any better than excellent but the Assessor's Office said that it did go above excellent. Some of the cabinets in his house were bought in pieces and he put them together. He had discussed the quality somewhat with the Assessor's Office. After talking to a property tax attorney who had said that excellent was the highest but the Assessor's Office said that there was a higher quality he did not trust them any longer and denied them access. Commissioner Meinert suggested that it was difficult for the Assessor to determine quality if they were denied access to the house. Mr. Lake added that he had 3,000 sq.ft. of hardwood floors in his house that were unfinished, raw wood. He did not feel that he was getting a fair shake. He asked the Board to take into consideration that he had no landscaping with a lot of highway noise as he was about an eighth of a mile from the highway.

Commissioner Batchelder asked Mr. Lake, where he had indicated that the floors were not finished, if there were other parts of the residence not finished. Mr. Lake replied, no, other than the landscaping. Mr. Lake remembered another factor. The area above his garage was storage and he had to put in a fire door to protect the upstairs of the garage from the main house. Thus, he felt that the square footage was less as a result. Commissioner Albritton asked if the Assessor's estimate of square footage matched what he thought it should be and he replied that it did.

Raelene Freier provided background on the property and what she had seen and had done. She stated that much to Mr. Lake's credit he built a beautiful house. He was an excellent craftsman and did wonderful work. He originally pulled the permit on his house in October 2005. The initial site visit was in March 2006 where she noted a foundation only. The next visit was in August 2006 and, at that time, the house was just framework as depicted in a photograph she submitted along with a memo dated July 25, 2008 from the Assessor's Office, a sheet showing the subject property and two comps, and a Property Record Card (*Assessor Exhibit A-1*). At that time the garage was essentially done and most of the veneer on the outside, and it appeared that Mr. Lake was using it as a shop. They made another site visit in April 2007. At that time they determined that the house was not at 50%, which is the break off point they use for the house to go on the tax roll. The next site visit was in November 2007. At that time, Ms. Lake took them through the house and explained that the house was to be completed in December 2007. The flooring was being installed, there was oak flooring, and she believed that the workers were putting in the slate flooring, as well. It was at that time that they noticed the general construction of the house. It was a beautiful house. In June 2008 they made an appointment with Ms. Lake to see the house to reevaluate the area over the garage for storage to determine if they had assessed it correctly. Access was denied so they could not verify if the area was storage or not. They looked through the windows and could see that it was drywalled, painted, and there was recessed lighting but nothing else. The house itself has 4,760 sq. ft. of living space that does not include the 630 sq. ft. detached garage. There is 3,095 sq. ft. of main floor, 1,429 sq. ft. of second floor that also comprises the area over the garage, and there is

237 sq. ft. of a loft area. A catwalk spans the area from the house to the garage. For classification purposes they called that area the loft. Mr. Lake brought up the excellent classification. Ms. Freier explained that within the Assessor's system they have many classifications for types of construction. There are three classes of excellent quality in the system to delineate between the truly custom homes. They currently have Mr. Lake's home at the bottom of the excellent level. She volunteered on several occasions to look again at Mr. Lake's house but he said no. Therefore, the Assessor's valuation was based on the November 2007 inspection.

Ms. Freier, in response to a question from Commissioner Albritton, explained that there were many modifiers that went into the calculation but the base value on excellent quality ranged from \$170 per sq. ft. to \$605 per sq. ft. without any modifications. Components of a house were valued differently. For example, the main level would be valued at the \$170 per sq. ft., whereas the second floor would be valued at 85%, a loft would only be valued at 15%, etc.

Dennis Michaud explained that when they looked at comps for value they had to look at sales as they occurred. There were not a lot of houses of this type, size and value during the timeframe. The two qualified comps were in Ridgeview Estates on CR 1 going up the hill and the other was on CR 24. Both were purchased within the 2005-2006 timeframe. The one on Ridgeview sold for \$1,350,000. The main floor was 2,760 sq. ft. compared to over 3,000 sq. ft. on Mr. Lake's property. The Ridgeview home sold for \$378/sq. ft. and the other on CR 24 sold for \$444/sq. ft. Currently, Mr. Lake's property is valued at \$307/sq. ft. Mr. Lake was correct in pointing out that the one on CR 24 was on a bigger piece of property. The Eagle Hill property was currently on the market for \$1.6 million, \$348/sq. ft., with only 2,249 sq. ft. on the main floor. The Assessor cannot go by an asking price. Mr. Lake pointed out that the taxes were less. Ms. Freier explained that another factor was different tax districts.

Commissioner Albritton clarified that the Assessor's value was based on the November walkthrough. Ms. Freier explained that the walkthrough was within one month of completion and for all intents and purposes the house was completed. Finish work was being done but no landscaping had been done and it still needed to be graded, etc. There were granite countertops. Her recollection was that it was a *nice* house. She did not remember if the appliances were in. Mr. Lake offered to provide delivery dates for the appliances to substantiate the fact that they were not in at that time.

Commissioner Albritton advised Mr. Lake that the Board could take into consideration the quality of the cabinets, the quality of the wood, etc. if he could present evidence of such. The Commissioners needed something for the record in the way of proof of quality and it made it tougher when he would not let the Assessor's Office in for a site visit. Mr. Lake restated his concern that he had to trust their ability to determine what level of excellence or quality of construction it was and he asked how they would know that. Commissioner Albritton asked to see an invoice for the cabinets. Mr. Lake said that the Assessor's Office told him it was not based on that or what was in his house but on their opinion. Commissioner Meinert explained that they were not talking about the appraised value being based on his cost of construction but on the evidence necessary to verify his contention that the fixtures and furnishings were not as high-end as the Assessor's Office had used in the evaluation. The only way to do that would be to have the Assessor inspect the house to verify his contention or, alternatively, for him to provide the evidence supporting it. Commissioner Albritton asked the Assessor's Office if they were to change the classification from excellent to the next category what it would be. Ms. Freier replied very good, on the residence only, not the land. Commissioner Albritton clarified with Mr. Lake that the land valuation was not in dispute. Mr. Lake replied, no, but if they were comparing it to a comp then the land might be a consideration if it had landscaping. Ms. Freier noted that, generally, they did not look at landscaping. They may look at patio structures. Commissioner Albritton asked if Mr. Lake was in agreement with the Assessor's valuation for the land at \$200,000 and he replied that he was. Ms. Freier offered that they currently had Mr. Lake's house at \$1,187,640 but if they downgraded it one level to very good the valuation would be \$1,047,920.

Dennis Michaud discussed that the Assessor had to use the sales of properties in the timeframe from January 2005 to June 2006 for this tax year. They could only look at actual sales, not at listings or what people tried to sell it for but did not. They compared the size, quality and condition of the different properties. They have to do comparisons on a mass basis because they cannot appraise each property individually.

Commissioner Meinert observed that, on the basis of the information presented by the Assessor's Office, Mr. Lake's house was valued at \$307/heated sq. ft. while the comps were valued much higher than that. If the dollars per sq. ft. were reflective of the relative value and quality of the house then Mr. Lake's house was being appraised at a value lower than the comps. Mr. Lake observed that the comps included the property also. Mr. Michaud agreed that the total valuation included the property.

Commissioner Batchelder asked the Assessor's Office if there was a breakdown of the value between the property and the improvements on the two comps. Mr. Michaud noted that the land was valued about the same as Mr. Lake's property on both of the other properties but pointed out that the land was valued as ag on one of the properties so the valuation was very low. A discussion followed.

Commissioner Batchelder suggested that for the two pieces – the land and the improvements (house), where testimony received on the value of the house indicated that the Assessor had valued it at the lowest range of excellent and Mr. Lake had indicated that there may be some question about that and specifically alluded to component cabinets as opposed to custom cabinets and an unfinished floor, and further where there was testimony concerning a house that was similar in nature on Eagle Hill where the classification was put at good, although that was not definitively determined (Mr. Lake gave testimony to that effect, the Assessor's Office could not say exactly what it was without consulting their records), the Board look at a value of very good that would drop the value to \$1,047,920. Ms. Freier testified that they would not have put the house in Eagle Hill as good. Furthermore, Commissioner Batchelder suggested that on the other piece, based on the testimony primarily from Mr. Lake and secondarily from the Assessor's Office on the properties, specifically the properties on CR 24 and Ridgeview Lane, with the values indicated in the sales price and with full knowledge that there were some differences in the property concerning location where Mr. Lake's testimony was that his property was approx 1/8th of a mile off of Highway 550 and that there was significant highway noise, the Board consider a decrease of \$50,000 in the overall value, which would basically be

a decrease in the property value. He suggested that the Board consider a decrease in the improvement property to \$1,047,920 and a decrease in the land value from \$200,000 to \$150,000.

Mr. Michaud advised the Board that Mr. Lake bought the land during the timeframe for \$195,000. With that information, Commissioner Batchelder revised his recommendation to \$195,000. Ms. Freier explained that this was probably not the only sale they took into consideration in valuing the subdivision. All of the lots in the subdivision were similar in nature, whether highway noise, size, etc. and they would be looking at changing the entire subdivision of five parcels. Commissioner Meinert saw no rationale for devaluing Mr. Lake's property if the other properties were valued at \$200,000.

Commissioner Meinert returned to the discussion about quality. The Board only had the Petitioner's claims that the quality of the appliances, cabinets, veneer, floors not being finished, etc. would justify a reduction. There was no testimony to verify his contention that the property was not excellent quality. The only way to determine that would be by additional evidence or by having the Assessor make an inspection. He had concerns about an arbitrary determination of lower value.

Commissioner Albritton asked what else could be used other than a site visit. Ms. Freier replied that detailed photos that would indicate that, for example, he had a Kenmore stove and not a Wolf, or that the floors were not slate but vinyl tile. Mr. Lake clarified that they were porcelain tile not slate stone. Ms. Freier indicated that that would make a very minor difference.

Mr. Lake returned to his concerns about the ability of the Assessor's Office to determine what the quality was and asked if they were professionals. Ms. Freier explained once again that they followed the guidelines established in Marshall and Swift. She advised him that she and Dennis Michaud were state-licensed appraisers. Mr. Lake contended that builders do certain types of quality, i.e. tighter joinery or style or design, that the homeowner would not notice. Conversely, a layperson may see the workmanship that was put into the home that was relatively simple for a craftsman as something that was difficult to do and base an assumption of quality on that.

Commissioner Albritton suggested that the Board would be willing to review any other testimony such as photos, samples, etc. that would demonstrate a lower classification in lieu of a site visit.

Commissioner Batchelder added that he would be willing to continue the hearing for presentation of such evidence. He noted that another point of contention was the question of storage space over the garage and suggested that Mr. Lake provide photos of the area to support that contention. The Assessor's Office noted that it would result in a minor difference in value.

Commissioner Meinert observed that it was very difficult for the Assessor's Office to make an accurate determination using their criteria without making a site visit. If Mr. Lake continued to deny them access then the burden was on him to provide enough evidence that the quality was different from the Assessor's determination.

Dennis Michaud suggested another option. Mr. Lake could hire a licensed appraiser with 20 years of experience to do an appraisal of value as of June 2006 and they could consider that.

Mr. Lake decided that he wanted to continue the hearing.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Batchelder to continue the hearing to August 4, 2008 at 2 p.m. at the Courthouse in Ouray. There was no discussion. A roll call vote was taken on the motion with the following results.

Commissioner Meinert voted in the affirmative
Commissioner Batchelder voted in the affirmative
Commissioner Albritton voted in the affirmative

Motion passed unanimously.

Commissioner Meinert continued the hearing to August 4, 2008.

10:18 Commissioner Meinert adjourned the special session:

**Numbered exhibits are maintained separately in the County Administrator's office.*

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS
OF OURAY, COLORADO SITTING AS THE
BOARD OF EQUALIZATION

ATTEST:

K. Keith Meinert, Chair

Don Batchelder, Vice Chair

Michelle Nauer, County Clerk and Recorder

By: Linda Munson-Haley, Clerk of the Board

Heidi M. Albritton, Member