

The Board of County Commissioners met in special session on July 28, 2009. Those present for the session were Heidi Albritton, Chair; K. Keith Meinert, Vice-Chair; Lynn M. Padgett, Member; Mary Deganhart, County Attorney; Connie I. Hunt, County Administrator; and Linda Munson-Haley, Clerk of the Board.

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

9:08 The Board of County Commissioners convened as the Board of Equalization to consider the following property valuation appeals:

Commissioner Albritton convened the Board of Equalization and a roll call of the members of the Board of Equalization confirmed that Commissioner Albritton, Commissioner Meinert and Commissioner Padgett were all present.

**A. 9:08 1. Property Owner: Laszlo Kubinyi
Schedule Number: R001734**

The Petitioner, Laszlo Kubinyi, and his wife, Kathryn Kubinyi, were present. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present from the Assessor's Office.

Commissioner Albritton opened the public hearing on Schedule Number R001734 for Laszlo Kubinyi.

The Clerk swore everyone in who would be presenting testimony.

Laszlo Kubinyi had previously submitted two photographs along with his Appeal to the Board of Equalization (*Petitioner Exhibit A.1-1*) and submitted a packet of information at the hearing (*Petitioner Exhibit A.1-2*).

Kubinyi has lived in Ouray since 1974 in the Mill Valley Subdivision, which is next to Whispering Pines. Corbett Creek comes out from the canyon behind the property, Mill Valley Subdivision Lot 9. That whole area used to be a busy, highly industrialized area in the 1920s and 1930s with a smelter, residences, offices, miner's homes, etc. The smelter was torn down for steel during WWII. The residences were likely washed away because there were only foundations remaining. He found this information in Marvin Gregory's book. When he bought his property that is adjacent to Lot 9, Lot 8, he was warned about the floods. He was living on Lot 8. He referred to the black and white photo from Gregory's book of the buildings that existed back then (*Petitioner Exhibit A.1-2*). Only one of the buildings still remained and it was on Lot 8. The Corbett Canyon is about 6 feet wide and 300 to 500 feet deep. Frequently, when there is a heavy downpour the entire east side of White Horse Mountain drains into this one little creek along with trees and debris that jam it up and cause a reservoir. When it gets full enough the water breaks free and causes flooding with a wall of slurry. He was told that this was an every eight year or so event.

The County was constantly working on Corbett Creek, which he appreciated, to keep CR 17 open. The subdivision was established in 1971 and 1972. A high voltage power line was just replaced with an even bigger power line. He bought the property in 1998 because he had a little storage building that encroached from Lot 8 onto a small portion of Lot 9.

The flood events change all of the time. He only recorded two of them, 2003 and 2008. There were many other floods. This last flood was in the afternoon when he was home. He referred to a drawing in *Petitioner A.1-2* showing the power line and the flood line from August 9, 2008. He had a photo of an adjacent lot after the last flood in the same exhibit and noted that the homeowner spent \$80,000+ to return the house back to where it was. He asked how one could mitigate a 100-foot wall of slurry. The next two photos showed his property and debris the day after the flood. The last photo was taken on August 28, 2003 after the 2003 flood.

Kubinyi questioned the assessment value because in his opinion comparable properties could not be found unless they were in the path of a flood and with a high power line running through them. Where would you put a leach field and septic tank, he asked. That was why he did not agree with the assessment, because there was no comp. He disagreed with Paul Christensen, Ouray County Building Official, that it was a suitable building spot. The two neighboring buildings should not have been built there. It was not a buildable property and was not safe for human habitation. In his opinion, a \$60,000 assessment was valid because that would be all that he could get if he was ever able to unload on an unsuspecting buyer. He bought it for \$40,000. The only building on the lot was part of the storage building that was encroaching.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit A.1-1*).

Raelene Freier, Chief Deputy Appraiser, thanked Kubinyi for allowing the Assessor's Office Staff to walk the property to look at the property boundary lines, the flood damage and the power lines several times. There was no contention that the subject lot along with the neighboring lots on each side had issues with Corbett Creek. One of the Assessor's Office's jobs was to be able to support a value based on market analysis of similar sales. They looked at flood drainages all over the county in an effort to try to determine how that would affect the value of the property. They were not able to find anything along the waterway that was less or more valuable on either side. She called Paul Christensen to find out about the "buildability" of the lot. He said it would take some specific engineering to forego the flood potential. He had no idea what it would cost but for someone with money it would be buildable. Because the lot was being used in conjunction with the residence the Assessor was not assessing it at the vacant land rate but at the residential rate. Additionally there was a 33% modifier on the property that was, essentially, a discount. She explained that the Assessor's Office could not find sales to justify a lower value. Freier advised the Commissioners to keep in mind that there were two parcels on either side of the subject property, the house that suffered the flood damage and the Laycock house, and all three were in the same position. If the Commissioners considered adjusting the valuation on Kubinyi's property, then they should consider a like adjustment to the parcels on either side. They all have the same modifier.

Commissioner Meinert discussed the potential engineering costs to offset the flood potential noting that the rationale used in the past to value property was to take the comparative value with the comps and subtract what the engineering

costs would be. He asked if that was a valid alternative and, if so, what kind of valuation would that yield. Freier advised that it could be researched. Mayfield noted that the main concern was to remain equitable with the other two lots.

Commissioner Padgett discussed that sometimes lot owners with more than one lot merge them. Assessor Mayfield noted that Kubinyi had a building that straddled the lot line. Commissioner Padgett drew a diagram of the flood line on the property according to Kubinyi and when she scaled off the 25-foot setbacks from the exterior lot lines there was no buildable area left. If they took the acreage of Lot 8 and Lot 9, considering Lot 9 as essentially open space because it was unbuildable, she asked what would be the market value of a single lot with a single building envelope that would be approximately 1.2 acres because that was how it was being treated already. It was essentially one lot with one building envelope and a storage shed with a lot of geohazard open space.

Freier explained that if the lots were merged the Assessor's Office would look at one lot, one building site, and value it accordingly. They were being taxed as being used together residentially but on the books it was a separate building site.

Commissioner Padgett countered that there may or may not be a building site on the lot, but if there was the safety was very dubious and the ability to engineer safety was dubious.

Commissioner Albritton related that even with engineering to mitigate it the cost would be prohibitive. She lived on the Portland Flume that had a wall of concrete that cost the State of Colorado possibly a half a million dollars just from Main Street to the river. She had sympathy with those who lived near a flood event. She did not have an issue with changing the valuation on this property and having it affect the other properties; it was unique. If there were real engineering numbers there would be a negative valuation. She felt that the County should apply some discount because of the uniqueness and geohazards.

Commissioner Meinert appreciated Commissioner Padgett's point. He related that this had given him heartburn a few years ago when going through reclassification of property from vacant land to residential. He could understand the Assessor's dilemma. If the homeowner and landowner decided to legally merge the two pieces of property it would make it clear to the Assessor that it would be one property and he encouraged Kubinyi to do so to make it clear that Lot 9 was part of his residence and not valued separately. To Commissioner Albritton's point, the 33% deduction was probably not sufficient to take into consideration the true cost of mitigating the flood hazard there. Rather than going out and requiring the homeowners on an individual basis to get an engineering estimate, the most equitable and easiest way would be to apply a different discount rate. The difficult part would be to come up with an appropriate and fair discount to apply to all three lots. He proposed that maybe a 50% deduction would be more inline but that would still not get all the way to Commissioner Albritton's argument that the underlying value of the property minus the cost to make it buildable would still not be accommodated with 50%. He proposed that all three properties be revalued with a 50% reduction in the value.

Commissioner Padgett explained that there were many properties in the county that were subject to different types of geohazards. Would that mean that every parcel or land in the county would need this discount?

Mary Deganhart advised that the Commissioners' role was to address properties that came before them as the Board of Equalization. If an appeal was made and it had the same problems as adjoining properties, then the Assessor could make adjustments; however, the adjustment was not countywide unless something came before the Board of Equalization.

Commissioner Albritton noted that this was a County-approved subdivision and she felt a little more of an obligation because it had been approved by the County. She felt more of a sense of obligation to the property owners adding that these types of events changed locations year to year. She did not have a problem with a 60% discount.

Commissioner Meinert as far as precedent setting, the rationale he was using was that the property's value was based on comps in the area. He was suggesting that the devaluation was from the comps in the area to account for geohazards on the property. To the extent that that same situation was mirrored other places then those people could make the same geohazard argument if their properties were based on comps that did not have that geohazard. To the extent that a precedent was being set by this, that precedent was only in a fairly narrow set of similar circumstances.

Commissioner Padgett heard the Assessor's Office say that they had looked at comps in floodplains, etc. to support their valuation. Her main reason of getting into this was getting this into the record for future boards that these issues were thought about and thoroughly discussed.

Kubinyi stated that people build in ridiculous places and then demand discounts and services and he wondered where the Building Department stood on these issues. People with money can build anywhere but it was not reasonable and the areas where they build they should not be building on. The Building Department should not be granting approvals and the County should not be responsible to keep these people happy all of the time.

Commissioner Padgett agreed that the Petitioner was in a County-approved subdivision and these things should have been taken into consideration.

Commissioner Albritton felt that in this case it was appropriate to change not only the value of Lot 9 but of the neighboring properties, as well. She advocated for a 60% discount.

M/S/P—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert on Schedule Number R001734 to place a 60% discount for the flood hazard issues on the property in question and asked the Assessor, in addition, to consider the neighboring properties in reference to the same potential discount assuming that the same hazards existed on those properties. Discussion.*

Hunt asked for clarification of the 60%. Commissioner Albritton replied that it was 60% off of the current valuation of \$100,500. Freier noted that the valuation the Assessor's Office had was already reflecting a 33% discount. If they put a 60% discount on the original valuation of \$150,000

that would give a lot valuation of \$60,000. Commissioner Albritton replied that was what she was talking about. Commissioner Meinert clarified further that it would be a 60% discount on the underlying valuation of... Freier replied, "...on the land". Commissioner Albritton wanted it clear for the minutes.

Hunt replied that she needed it clear because she prepared the decisions. She understood 27% basically of the adjusted value...

Freier replied, no. What they wanted to do was to put a 60% adjustment on the original land valuation. The original land valuation was \$150,000. The new valuation would be \$60,000. Lot 5 in Whispering Pines would have a total valuation of \$50,000 on the land.

Hunt revised her figures and stated that it would be \$150,000 minus \$90,000. She recommended that the Board was adjusting on that Schedule Number from the original value of \$150,000 to an adjusted value of \$60,000, which was a 60% reduction from the original value set by the Assessor, and that was on all of the property including— She was corrected that it was just on the land. She pointed out that on the sheet it said residential, so it was only on the land. Assessor Mayfield explained that it was getting the residential assessment rate because it was used in conjunction with the residence. Hunt clarified that there was no house on it and was told that was correct. She admitted to being confused by a picture of a house.

Commissioner Albritton concluded that essentially what the Board was doing was changing the discount that was being applied giving a heavier weight to higher flood risk.

Commissioner Meinert added that the discount would be applied similarly to similarly situated properties in this area.

Commissioner Albritton suggested that if other properties in the county were encountered that had similar extreme issues, similar logic would be applied.

A roll call vote was taken on the motion with the following results.

Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative

Motion passed unanimously.

The Board encouraged Kubinyi to consider merging the lots to make it cleaner in the future.

Commissioner Padgett discussed having a cross-reference between the Assessor's Office and the Building Department regarding the discounts for certain hazardous areas.

Commissioner Albritton closed the public hearing.

**B. 10:06 2. Property Owner: Irwin J. Borof
Schedule Number: R005100**

The Petitioner, Irwin J. Borof, was present. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present from the Assessor's Office.

Commissioner Albritton opened the public hearing on Schedule Number R005100 for Irwin J. Borof.

The Clerk swore Irwin Borof in.

Irwin Borof had previously submitted an exhibit (*Petitioner B.2-1*) with his Appeal and submitted another packet of information (*Petitioner B.2-2*) at the hearing that included photographs and information on 414 Amy Way, 426 Amy Court, 408 Le Ranch Bl., and a table of comparable properties. He explained that the point of his appeal was going back to the valuation of 2007 which was effective as of June 30, 2006. At that point the Assessor valued the property at \$486,720. He should have but did not appeal it at that time due to his newness to the area and personal issues.

Borof discussed his property, 414 Amy Way, and noted that it was purchased in 2006 for \$421,400. The price was actually \$420,000 plus \$1,400 because he got an extension on the closing date and agreed with the seller that he would pay the construction cost because he was asking for a later close; however, they closed earlier than the date suggested so it was \$421,400. The Assessor now says that the house had an appreciation value of 47% per annum and valued the property four months later for \$489,000, which was almost \$68,000 more than the purchase price four months earlier. He thought it absurd that it would have that much appreciation. When the Assessor did this appreciation, Staff said that it would be adjusted because they had used the \$489,000 as the value. The legal definition of fair market value was a price agreed upon in negotiations between parties, long-arm negotiations. Scott Bridger does not give his property away. That was the price that they had agreed upon and was the value of the property as of March of 2006. It did not jump just under \$70,000 in four months. When he filed the appeal he raised that point and the Assessor's response was to ignore that issue and say that they would live with the \$489,000 and judge his house in view of two comparable houses. He referred to his exhibit showing his house and two others. The Assessor was saying that those houses sold for a lot more but because his house had upgrades it had to be worth more. The reason the Assessor knew that it had upgrades was because they read it in the MLS listing of the property that said that his had upgrades and the others did not. Just because they did not have it listed did not mean that they did not have the upgrades. That was blatant hearsay. There was no direct testimony verifying it. More importantly, all

of the assumptions were wrong. All of the houses were built by the same builder. They all have the same upgrades. To say that his house had more upgrades than the others was just wrong. His lot was much smaller. His house was smaller and older. Scott Bridger corrected the mistakes that he made in Borof's house when he built the others. As far as upgrades, his appliances were middle-of-the-road with stainless steel doors. He replaced the dishwasher because it was not good enough. The gist of the Assessor's response was that the house would be worth less except for the upgrades. In the chart included in *Petitioner Exhibit B.2-2* was a listing of all of the houses in Le Ranch. He highlighted five of the houses. 426 Amy Way and 406 Le Ranch were the two comps he just discussed. The square footage was larger, the lots were significantly larger, and so the differentiation with all of the same things would put his house at a much lesser value than those two. He pointed out 412 Amy Way and 416 Amy Way, the houses on either side of him, that were built by Whalen and built before Scott Bridger built his house. They were very similar houses. Both had square footage close to his, 412 had a wide 1½-car garage and 416 had a 2-car garage, they were both 3 bedrooms, 2½ baths. His home had slightly upgraded appliances. When looking at the history of the two, in the 2007 evaluation, the valuation on 412 increased \$100,000, which made it \$130,000 over the purchase price, but it was lowered back to \$386,000 this year. 416 Amy Way, which was virtually the identical house to 412, was valued at \$355,000, a fair value. His house was comparable to those two. In 2006, before it was sold, his house was valued at \$366,000. The next appraisal was \$120,000 more. He did not know how the Assessor's Office arrived at that. It was then reduced and the Assessor's argument was that they were giving him a 12% based upon the \$469,000. But, if the \$469,000 was wrong, then that was wrong. Clearly, his house was comparable to the \$386,000 and the \$355,000 of the 412 and 416. The whole argument of why his house was better was bogus and his exhibit explained that. The basis of the Assessor's argument was the reading of the MLS listings that did not say what it said. Again, that was bogus to rely on something that if it did not say something it must not be there. As a point of evidence in a court of law, he was an attorney, it was inadmissible because it was hearsay. His value should be \$395,000 based on the size of his house, a smaller lot and the comps of his two neighbors whose houses were virtually identical to his.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit B.2-1*).

Raelene Freier, Chief Deputy Appraiser, explained that all of these properties were physically inspected during construction, and most when completed. Borof's residence was inspected on January 23, 2006. His primary comparables were 406 Le Ranch, which was inspected on September 12, 2006 and November 19, 2007. 426 Amy Way was inspected on September 12, 2006. The data in the system was based on those inspections. At the time of inspection those houses were different. When the Assessor's Office assessed valuations they did not build on previous years nor did they look at just one sales price as being the valuation of a house. They look at the market and what it dictated. When they first did the valuation on Borof's residence, because there were so few homes in Le Ranch at the time, they looked at a broader market of homes of similar type, style, and quality of construction. The value placed on the residence in 2007 was the result of that analysis. The most recent valuation did not build on the previous valuation. They started with an independent analysis with a totally different data set to come up with the valuation they had. There was no correlation between the valuation before and the valuation now. The Assessor's Office has to determine if sales are qualified or unqualified sales. When Borof purchased the house in 2006 he filled out a Transfer Declaration Schedule and the Assessor's Office looked at the information on it to determine if the sale was qualified. One comment on the declaration was that the transaction was between related parties. As such, that disqualified the sale from analysis and they could not use it when setting the valuation on Borof's house.

Freier explained that there were other components that came into play when the Assessor's Office was valuing a residence. It could be the structure, itself. Different components of a house had different effects on the market. For example, a 2,000 sq. ft. single-story house had a greater value than the same house if it were two story. Different components of a house are valued separately. A second story is not as valuable as a first story and a half story not as valuable as a main floor, and a garage is valued using a percentage of the original valuation. Another consideration is that even within the same subdivision there could be different contractors building houses that may look alike but are not. In this case, Scott Bridger built some of the properties, some were Wingspan properties, and some Whalen. There were differences between them that were noted.

One of the things the Assessor's Office did before evaluating a structure, Freier continued, was to look at the land value and see what those sales did to establish a valuation for the land. There were quite a few land sales in Le Ranch with qualified land sales that ranged from \$109,500 to \$130,000, both before and during the analysis timeframe. Currently, the lots were valued at \$110,000.

One of the points brought up was the fact that the Assessor's Office based its valuation on MLS listings. Freier clarified that the MLS was only one of many tools used to assist in valuation. For example, oftentimes they saw a house listed on the MLS for significantly more than valued in the system. That threw up a red flag and made the office wonder why the property was selling for more than it was valued for. They would look at the listing to see where they were wrong and oftentimes it had been remodeled, the basement finished, an addition put on, all things that they did not know about. She reiterated that they did not base their findings solely on MLS listings. Used as a tool, it was valuable in showing the inside of the structures.

Freier continued. Quality, condition, architecture, all came into play on the valuation, as well as the age of a residence. The building components and location also affected a valuation. Homes on a greenbelt, a golf course, a corner, a cul-de-sac sold for more than homes that were not.

The Assessor's records indicated that the three homes primarily used in this valuation were different. They had different adjusted square footage. There were some similarities. It was not just the appliances but the attention to detail that was different. One thing they noticed in the last valuation in the county as a whole was that residential improved property increased 12% in the last revaluation cycle. One of the markers they looked at when double checking what the market was saying was how it related to the purchase price of the house. If they were to take, for example, the purchase price of Borof's house and apply a multiplier they would come up with \$471,000. They were using mass appraisal and when they did that they had houses above and below the value they had placed on them. They were required by statute to perform a market analysis every two years based on sales data. Based on the data they have, she felt that the value of \$469,000 was where it should be.

Borof countered that he had no idea where or how the Assessor's Office could suggest that he was related to Scott Bridger. He never met Bridger or knew him until he came in. Susie Mayfield showed him a confidential document that she could not show the Board, apparently corroborating the information and asked Borof if it was his signature on the document. He agreed that it was his signature. Borof asked if in fact was a qualified sale would the appraisal have been different. Freier explained that it would have been taken into consideration. Borof replied that the document had been prepared by an escrow broker at the time of closing and that he did not notice it. He swore that he was not related to Bridger. It was a long-arm negotiation.

Borof added that Freier had really not addressed the specifics, just had spoken in general about valuations countywide. He referred to the comment that his house had things better than other houses and stated that everything the Assessor had listed in his house that was not in the other houses was false. As far as design, they were the same houses. They were not the same as far as size and the construction aspects were concerned. What his house was close to was the two houses on either side of his. He concluded that it was definitely a qualified sale and that neither he nor his wife was related to Scott Bridger. They had never even met him.

Commissioner Padgett explained that as she was looking through the information presented, right away it appeared to her that there were similarities between 414 and 426. 408 had different windows, the garage was not in the front of the house, along with other differences from the pictures that were presented in Borof's exhibit. In trying to narrow the information down, it seemed that the issues being presented were that the lot sizes were a little different, the house sizes were a little different, but that things were pretty much the same and should be treated the same in Borof's opinion. The Assessor said that there were inherent differences even in things that appeared to be the same. The Board could only consider evidence presented today. She did not hear anything from the Assessor's Office as to what differences may be factoring into these different values. She observed how similar the purchase price was in 2007 of 426 to the assessed value of the property in question in 2007. Her second observation was that the square footages of the houses on Amy Way were variable, but 414 and 426 both sold a year-and-a-half apart for \$207 and \$219 per sq. ft., just for the house, discounting any differences in land. They were currently assessed pretty close, \$230 to \$220.

Borof pointed out that there was a critical difference between the two houses. 426 had a full basement and the garage was included in the square footage. His actual living space was 1,800 to 1,900 sq. ft. 426's was larger. They had a small TV room upstairs. The major difference in the two houses was the basement. He had a crawl space.

Freier advised the Board that when the Assessor's Office first talked about qualifying Borof's sale it was for the 2007 valuation, which had nothing to do with now. It was not used in the past and was not part of the data set. When they talked about square footage on these houses they were talking adjusted area. The different components had different values. A garage was only 30% of the valuation of the main floor. The computer discounted that in the square footage. There was also different quality and different condition. The Assessor defined quality and condition as defined in "Marshall and Swift", a nationwide standard. The three houses had slight differences that came into play on the valuation. One final point that came up was the basement on the neighbor's house. They showed a basement but showed it as an unfinished basement. She called Bill Behan with the Town of Ridgway whose records showed it as being unfinished.

Commissioner Meinert asked Freier to walk the Board through the calculations on the Property Record Card for the residence at 426 Amy Court. Freier detailed the data explaining that the attributes of the house showed a two-story in excellent condition – a good quality structure. Commissioner Meinert asked Freier about the base valuation and how it was taken into account. Freier explained that the base valuation was coded into the base value code and was affected by architecture, quality, condition, and depreciation. More discussion was had on the calculations. Commissioner Meinert noted that it appeared that some of the differences that Borof had identified had been taken into consideration in the calculations and the computer program that comes up with a valuation of each individual part of the structure, and in particular the basement, that was devalued and adjusted because it was not a heated living space. Commissioner Meinert confirmed with the Assessor's Office that Borof's Property Record Card showed no basement with similar kinds of features such as garage, the base structure, a second floor, deck, etc. and all of the individual components were also valued on his structure. He asked if the comparison that the Petitioner had outlined with the various different properties was used in the Assessor's comps or valuation. Freier replied, not exclusively. They were only looking at two homes here. They would have to go further and look at other homes of the same quality and condition and in similar neighborhoods. When doing mass valuation, they could not be that specific; they had to look at the broader picture. Commissioner Meinert posited that it could be possible in a mass valuation on a particular piece of property not used as a comp that the property may be undervalued. Freier replied that they would have things above and below the median that they strived for. Freier concluded that the State audited what the Assessors did and they had a narrow margin that they had to maintain when doing sales ratio analyses. Commissioner Meinert asked if it was possible or likely that there may be properties comparable in quality but that the appraised value was lower because the system undervalued those properties. Freier replied that it was done by appraisers all of the time.

Commissioner Albritton asked about quality. Freier explained that the differences could be subtle. They could look at fenestration, windows, exposure, types of windows and quality, shape of windows, roof lines, siding, finished soffits, detail around windows, mitering around corners, etc. Commissioner Albritton asked about quality specific to the Petitioner's home. Freier referred to her field notes. She explained that she had visited the home several years ago. It was a two-story structure, the garage door was wooden (an upgrade), it had a stucco stone exterior (stone had a tendency to lend value), hardwood floors, solid maple and cherry cabinets as opposed to veneer, the type of decking may have come into play, alder doors not pine, and custom stone fireplaces. Those were some of the specifics.

Borof argued that the houses were all the same. All of the houses had wooden garage doors. 426 had a heated basement. He suggested that there was the same quality in all three of the houses; if anything, his house had less quality than the other houses. Bridger upgraded the windows and driveway. 408 was also the same house with the same bathroom, kitchen, the same cabinets; the quality on all three was the same. One difference between his house and 408 was that the garage was behind it with an extra room above the garage.

Commissioner Padgett noted that the property in question, 414, had been given an above average condition, as compared to an excellent condition in 426. Freier explained that it was an option. They could rate the Petitioner's

house the same quality and the same condition as the house at 426 Amy Court. If they did that the total valuation for the land and residence would be \$427,540. That would put him on an even keel with his neighbor's house and solve a lot of the issues.

Commissioner Albritton clarified that it would be good quality instead of very good and the condition would be excellent, the same as 426.

Commissioner Meinert pointed out that as far as location issues were concerned all of the houses had property valued at \$110,000 for the lots. He had taken the point that the mass valuation system did not build off of previous valuations and that any comparison built off of those was invalid. He pointed out that the Assessor had stated that all of these properties under discussion had been physically inspected and that any discussion of the MLS as hearsay was not appropriate.

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in regard to Schedule Number R005100 on property at 414 Amy Way in Ridgway owned by Irwin J. and Linda K. Borof, the Board found that the quality valuation should be decreased to quality 5, good quality, the condition valuation increased to level 5, excellent condition, from the current above average condition, and that those changes to valuation would reduce the value from the current \$469,550 to a valuation of \$427,540. There was no discussion. Motion passed unanimously. A roll call vote was taken on the motion with the following results.*

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Commissioner Albritton closed the public hearing.

11:06 Commissioner Albritton recessed and reconvened at 11:15:

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|-----------|--------------|-----------|-------------------------|---------------------------|
| C. | 11:15 | 3. | Property Owner: | Ponderosa Loop LLC |
| | | | Schedule Number: | R000415 |
| | | 4. | Property Owner: | Ponderosa Loop LLC |
| | | | Schedule Number: | R002683 |
| | | 5. | Property Owner: | Ponderosa Loop LLC |
| | | | Schedule Number: | R003147 |
| | | 6. | Property Owner: | Ponderosa Loop LLC |
| | | | Schedule Number: | R003148 |
| | | 7. | Property Owner: | Ponderosa Loop LLC |
| | | | Schedule Number: | R003151 |

The Petitioners, Charles Mueller and John Mueller, were present. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present from the Assessor's Office.

Commissioner Albritton opened the public hearing on Schedule Numbers R000415, R002683, R003147, R003148 and R003151 for Ponderosa Loop, LLC.

The Clerk swore Charles Mueller and John Mueller in.

There was some question of Charles Mueller's credentials to represent the properties in question. Charles Mueller explained that he was the manager of Ponderosa Loop, LLC. Technically, Synergis, LLC was the manager for Ponderosa, LLC and he was the manager for Synergis, LLC. He submitted copies of three comparable properties to the properties being appealed (*Petitioner Exhibit C.3-7-1*).

Charles Mueller explained that this was the very bottom of Ponderosa where the road had been roughed-in and not yet improved by the County. With respect to the timeframe, it was a rough, graded road with no utilities. About nine years ago the Petitioner gave the County a road right-of-way for the Ponderosa Loop extension and stipulated that the County would improve the road within three years. The agreement was filed years ago, which was not necessarily germane to the discussion except that it was an unimproved road without utilities. He did not think that the land sales in 2003 and 2004 used by the Assessor's Office were valid. He felt that his comps were better because they had similar views, similar situation with the utilities, similar situation with respect to ingress and egress, and much more recent. He referred the Board to the three sales that he presented of \$185,000, \$195,000 and \$195,000. It seemed to him that the Assessor's Office was taking subdivided lots with utilities and paved road accesses and applying that value against 40-acre tracts with not as good access and no utilities, and trying to make comps out of them. He did not think that was quite proper.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit C.3-7-1*).

Dennis Michaud, Appraiser, explained that he was not familiar with the Petitioners' comps but that they were not in the vicinity of what they were talking about. He discussed the Assessor's comps and explained that while they were not in the time period the Assessor was allowed to go back five years to get data. He felt that all could agree that land values had not declined from 2004 through 2008. The four parcels listed by the Assessor's Office for comps were not

subdivided lots. R-3150 was currently subdivided but at the time of the sale it was not subdivided and was a 44.5-acre parcel that sold for \$475,000. It was adjacent to the subject property. Since then it was subdivided and the lots of 2 to 3 acres have sold for \$275,000 to \$310,000. However, the Assessor's Office was only using the pre-subdivision sale as a comp. The comp with the worst access was R003072 and, although it was difficult to get to, it sold in 2005 for \$360,000. It was still undeveloped. More recently, R005805, an 18-acre parcel, sold for \$375,000. All of the Assessor's comps were in the same condition as the subject property with utilities being accessible and road access the same or worse at the time of sale. They were all valued at about \$9,000 per acre. Currently, the subject parcels were \$8,100 and \$8,500 per acre. As a result, the Assessor's Office suggested that no further discount was warranted based on the comps.

Commissioner Padgett asked if the comps that were presented were all in the same zone. Michaud replied that the comps from the Petitioner were not in the same zone and were 1:35. Charles Mueller inserted that one was in the North Mesa Zone.

Commissioner Meinert ascertained from Michaud that the five lots in question were in a 1:6 zone and all were part of what was Loghill Crest. Commissioner Meinert questioned why Michaud did not mention R002996 that sold for \$7,344 per acre when mentioning the other comps. Michaud explained that it was the oldest sale in 2003 and the Assessor gave the most weight to the most recent sales.

Charles Mueller had some confusion as to where the parcels used in the Assessor's comps were located. Assessor Mayfield explained that the properties were north of the golf course. Mueller noted that his general contention was that, as Michaud said, more weight needed to be given to the most recent comps and, while his comps on Wisteria and Sugar Bush may be a couple miles off, but they had similar attributes and were more recent comps and should not be overlooked.

Commissioner Albritton explained that the only difference was the underlying density allowed by zoning. His comps at 1:35 were a big disparity to 1:6. Mueller countered that he did not feel that was fair at this point because they were 35-acre parcels that had not been subdivided and should not be looked at for what they might be worth someday once the infrastructure was brought in and they were subdivided.

Commissioner Padgett noted that the development potential was reflected in the market value. Charles Mueller countered that that was not appropriate because there was a whole subdivision process to go through and the Assessor should not "jump the gun" and assign arbitrary value to these. Because they were in the North Mesa Zone did not mean they could get approval and be subdivided. It was like comparing apples and oranges.

Commissioner Padgett explained that they could only consider what the property was worth on the open market, not what it was worth to the current owner, according to the State. John Mueller interjected that the Commissioners had constraints but they also had judgment, which was why there was an appeal process. The constraints were patently unfair. The Commissioners' judgment together as a group meant that the Petitioners called upon the group to mitigate some of the intrinsic unfairness of the constraints they were under.

Commissioner Meinert noted that it was a debatable concept but he took Mueller's point and would use his judgment. He noted in reference to the table on the map in the Assessor's exhibit that two of the comps, R003147 and R003148, had a higher valuation per acre, and asked why that distinction was being made and what caused the higher valuation. Michaud explained that it was the result of the previous valuation a few years ago. Commissioner Meinert replied that in the five parcels under consideration he saw nothing different as far as access to Ponderosa Drive, existing roadways, except for R002683 that did not have access to Ponderosa Drive. As far as the comps, two of them did not even come close to access to Ponderosa Drive, yet two did have access to Ponderosa Drive. It seemed to him and he understood the timing involved and the struggle to find comps without there being many active sales, but if anything, the properties under consideration had equal or better access than any of the other comps that Mueller pointed out. They were all in the same area with the same zoning, the same density and presumably the same viewshed as the comps. He did not find anything wrong with the valuation the Assessor placed on the property.

Charles Mueller noted that 18 months ago, Ponderosa Drive was a very rough road in that location. His point was that 18 months ago it was barely passable with a 4-wheel drive.

Commissioner Meinert countered that if that were so it should have affected the values of the comps that were in the area. The comps the Petitioner provided were not in the same area. Charles Mueller argued that those were more recent sales and the Assessor's Office had said that they gave the most recent sales more weight.

Commissioner Padgett pointed out that the issue in this county was the lack of sales within a certain timeframe that necessitated going back five years. She could not give weight to comps that were not in the same zone. She could only look at comps in the same zone and it was meaningful that these properties and comps had very similar views, as well. Ouray County had a lot of access issues but the Board could only look at what was here and in this zone. She felt that the Assessor's Office had provided good comps. Charles Mueller continued to argue his point that his comps were more recent, and being more recent was more valid.

Commissioner Meinert was comfortable with the Assessor's case.

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in the case of Ponderosa Loop Schedule Numbers R000415, R002683, R003151, R003147 and R003148, that the valuations that were established by the Assessor were correct on all five properties [\$324,000, \$324,000, \$324,000, \$310,880, and \$314,130, respectively] and should remain as valued by the Assessor and as indicated on the Notice of Determination. A roll call vote was taken on the motion with the following results.*

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

8. **Property Owner:** Lot 8E LLC
Schedule Number: R003835

Commissioner Albritton addressed the appeal on Schedule Number R003835 for Lot 8E, LLC.

John Mueller submitted copies of three comparable properties (*Petitioner Exhibit C.8-1*).

Charles Mueller explained that Lot 8E was north of Tower Road, which was not a paved road. It was a rocky place, expensive to trench utilities in, and slightly overvalued. He referred to one of his comps in his exhibit, Lot J-16 in Loghill Village, and explained that it was a February 2007 sale for \$113,000 and he felt it was a close comp. He felt that his property was on the high end of the spectrum. He felt that the three comps he submitted told the story. It had gone up 170% since 2005.

Commissioner Meinert asked where the comps were located. Charles Mueller indicated that all were Loghill Village single-family homesites. There was not much distinction between a homesite on 4 acres or on 5 acres. All of the Loghill Village comps were within the valid timeframe.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit C.8-1*).

Dennis Michaud, Appraiser, agreed with Charles Mueller that the Assessor's Office valued lots in Loghill Village similarly. Lot 8E was 4.9 acres and currently valued at \$165,000. He referred to a table on a map in his exhibit that listed seven comps in the same area as Lot 8E that were all about the same size with a median sale price of \$172,000. All of the lots not on the escarpment in Loghill Village that were between 4 and 8 acres were valued the same at \$165,000, which was where Lot 8E was valued. The lot was not on a paved road but was adjacent to a lot that sold for \$260,000, also on the same road. Charles Mueller argued that it was "way out of whack" and was not a valid comp because of the relationship between the parties involved in the sale. Michaud concluded that the Assessor's Office saw no reason to change the valuation.

Commissioner Padgett noted that the comps provided by the Petitioner were all 2 acres or less and those provided by the Assessor's Office were all close to 5 acres. The subject parcel was 4.9 acres. Her point was that the Assessor's Office's comps were closer in acreage to the subject parcel.

Commissioner Meinert asked Michaud which of his comps were the closest to the Petitioner's contention that there was not a paved road to the property, utilities were not on the property, and there was no gas. Michaud replied R003707 and R003911. Commissioner Meinert asked about utility access to the other comps and Michaud replied that they were all the same. Commissioner Meinert clarified that except for R003741, all of the Assessor's comps were similarly situated as far as not on paved roads and no utility access. Michaud explained that they do have utility access – electricity and phone, and were similarly situated to the subject property. He corrected that R003673 was on a paved road.

Commissioner Padgett calculated that if comp R003707 that sold for \$260,000, and in her mind was a possible anomaly, was "tossed out," the median sale price of the other comps from the Assessor was \$166,000 and the subject property was valued at \$165,000.

Commissioner Meinert pointed out that it was of interest also that the two comps on the paved road were valued at less than the valuation of the subject property. The issue of a paved road was a non-issue as far as reference to the comps.

Charles Mueller continued to point out that his comps were absolutely valid comps of \$113,000 during the valid timeframe and they should be thrown into the mix. Commissioner Padgett noted that one was on a paved road. Charles Mueller said that the Commissioners could not make a judgment that things on a paved road were worth less; they could not say that his were not valid comps. He would argue that in a bigger universe, being on a paved road was a positive.

Commissioner Albritton suggested that size was another consideration.

Commissioner Meinert observed that the evidence presented by the Assessor with comparable property valuations convinced him that the valuation of the property of \$165,000 was valid and correct.

Commissioner Padgett explained that the reason why she went through the exercise of eliminating the anomaly was to get a reality check and the reality check showed that the median was still above what the parcel in question was being valued at.

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in regard to Schedule Number R003835, Lot 8, Block E, in Loghill Village, based on the evidence presented by the Assessor's Office, that a valuation of \$165,000 was correct and should stand. A roll call vote was taken on the motion with the following results.*

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Commissioner Albritton pointed out that for the next three properties David L. Mueller was the owner of record and asked if there was an issue with Charles Mueller acting as agent and whether he needed to provide documentation of representation.

Deganhart felt there needed to be something authorizing Charles or John Mueller to act on David Mueller's behalf. Charles Mueller explained that he had done so for years and that it was part of the record in past years. He did not

have anything to present at this time but did have a recorded Power of Attorney. When asked, he said that he could try to reach David Mueller by phone.

Commissioner Albritton suggested taking a break and either retrieving the copy of authorization from previous Board of Equalization hearings or speaking to David Mueller to get authorization by phone.

12:08 Commissioner Albritton recessed and reconvened at 12:15:

Commissioner Albritton addressed Schedule Number R002960 for David L. Mueller. She explained that with regard to the properties owned by David L. Mueller, the Board did have verbal permission from David Mueller for Charles Mueller to act as his agent.

**9. Property Owner: David L. Mueller
Schedule Number: R002960**

John Mueller submitted copies of three comparable properties (*Petitioner Exhibit C.9-1*).

Charles Mueller explained that the property was located in the Divide Ranch that was a mess legally with a *lis pendens* on everything in the entire subdivision. It was a nightmare for those living there who could not refinance or sell anything. He went to the homeowners association meeting a few weeks ago and there was no indication that it would clear up anytime soon. And, to make matters worse, the bank that foreclosed had gone bankrupt. That being said, he felt that the comps submitted for the record, one in Eagle Hill, one in Fairway Pines, and one in Fisher Canyon, were indicative of the value. Actually, one was in Pleasant Point, but none were in Divide. Fisher Canyon was the closest as the crow flies, less than half a mile away. All were within the timeframe. He asked the Board to take into consideration that Divide Ranch was a big mess these days.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit C.9-1*).

Dennis Michaud, Appraiser, described the property as a house in the Fairway Pines subdivision on a 1-acre lot with mountain views and on fairway hole #14 in the golf course. The current value was \$848,880. The property was purchased by the current owners for \$815,000 in October 2002. All of his comps were in Fairway Pines, which was what they used. At least one of the comps had to pay off the lien before completing the sale, R002884. One of the differences between the three comps and the subject property was that the subject property was the largest with over 4,500 sq. ft. The one closest to that was 1,000 sq. ft. less and sold for \$874,000 within the timeframe. The next nearest in size was 3,969 sq. ft. and sold for \$800,000. He discussed the Petitioner's Fisher Canyon comp that sold for a surprisingly low amount, \$680,000, but it had no views. It was not in the same environment as the subject property. The Petitioner's comp on Pleasant Point Drive was in Pleasant Valley, which was a whole different area, and it was not on a golf course. Charles Mueller interjected, "...but it has staggering views!" The third comp was an older home in Eagle Hill Ranch with nice views but it was much smaller than the subject property and sold for \$710,000.

Charles Mueller explained that all of the homeowners associations were involved in the ongoing legal action and sharing in the cost. This was a factor in 2008. Mary Deganhart noted that the *lis pendens* was recorded after the test period. Commissioner Meinert concluded that it was not an issue to consider in the comparisons.

Commissioner Meinert noted that in the Notice of Determination the initial valuation of \$952,360 was reduced to \$848,880 after review, and he asked the Assessor what the rationale was for the reduction. Michaud explained that the condition was reconsidered and lowered in response to the protest that was filed with the Assessor's Office. Commissioner Meinert clarified that the condition was not what was at issue at this time because it had already been taken care of by the revaluation. What the Muellers were contending was that the comps they selected in other subdivisions were more valid than the comps used by the Assessor in the same subdivision. All agreed. Commissioner Meinert asked if the difference in valuations in the various subdivisions was reflected by the difference in land valuations. Michaud replied land and buildings, it could be both. Michaud added that land values in Pleasant Valley were significantly higher than land values in Fairway Pines because of the market.

Commissioner Albritton asked the Petitioner to address the comps provided by the Assessor's Office.

Charles Mueller explained that he had just received them but he noted that there were sales prices of \$490,000 and \$800,000 with the \$490,000 being adjusted to \$390,000. It seemed that some of the comps supported their over-valuation contention. Michaud explained that the \$390,000 was a smaller house than the subject property and out of the three comps it was the one to give the least weight to. Mueller felt that the Board should give some weight to the comps that he presented. He did not see anything inherently wrong with any of them other than the fact that they were not in the same subdivision.

Commissioner Padgett discussed the Staff Report exhibit and noted that it stated that the land for the 1-acre lot was valued at \$159,000 and the improvements at \$689,880. In discussing the lot values in this area in detail for 1-, 2- and 5-acre lots, the land value here was close to what was discussed previously in the range of the 2- to 5-acre lots in that the 1-acre lots were at \$110,000 to \$114,000. She asked the Assessor what the land value was based on. Michaud replied that there had been many land sales to go by, there were 32 vacant lot sales, and the value was size-dependent and view orientation-dependent, whether it was on a golf course, near open space, etc. The subject property was a relatively medium-sized lot for Fairway Pines. It had good mountain views and was on a fairway.

Commissioner Padgett explained that she was at a loss to be at odds with the Assessor's Office's comps, given that they were closer and within the timeframe. Charles Mueller countered that Fisher Canyon was closer and that the Board could not dismiss the Petitioner's comps because they were more valid.

Commissioner Albritton added that it was not the proximity but the fact that when buyers bought into a development they were buying into a package of amenities, *i.e.* golf course, clubhouse, etc. She understood that things had changed recently. It was better to have comps in the same subdivision. Charles Mueller countered that all of his comps

had the same amenities and that an owner in the Divide would pay just like an owner in Fisher Canyon to be part of a package. Commissioner Albritton continued to explain that buyers were paying for covenants and the caliber of homes that would help to maintain values. That was the only reason she would place less weight on the Petitioner's comps.

Commissioner Padgett explained that the owners not only enjoyed the same amenities but also the same frustrations.

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Meinert that due to the lack of compelling data to do otherwise, the Board would uphold the Assessor's Office's value for Schedule Number R002960 and felt that the value was correct as stated at \$848,880. A roll call vote was taken on the motion with the following results.*

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

**10. Property Owner: David L. Mueller
 Schedule Number: R003746**

Commissioner Albritton addressed the appeal on Schedule Number R003746 and explained for the record that Charles Mueller had the same authorization to represent David Mueller as he had been granted in the previous appeal.

John Mueller submitted copies of three comparable properties (*Petitioner Exhibit C.10-1*).

Charles Mueller proposed that this was a whole different animal and deserved special consideration in light of resolutions passed by the County regarding the antenna that would be in his backyard and between his lot and Mt. Sneffels. He did not know that Dallas Creek Water owned the lot behind his lot. It would make his lot worthless. It was a small, older house that would be in the shadow of the tower. He felt strongly that the Assessor should permanently place a value of zero on it if the tower goes in.

John Mueller added that it was less about the comps than the County's decision that impacted the property more than any other property there. In a recent Board of County Commissioners meeting a request was made to put in a T1 line with an air-conditioner. He could hear the noise now. He said that the subject property also had a serious radon problem that supposedly had been mitigated. The house had no central heating, only a woodstove. This would be an opportunity for the BOE to redress the significant damage done by the Commissioners' decision on the tower affecting this property more than any others.

Commissioner Padgett asked if the Muellers had any paperwork regarding the radon. They did not. John Mueller reminded her that they were under oath. Charles Mueller explained that this had turned into an industrial site with four other towers, two of which he did not think had been permitted properly. He was not sure how the lot was created. He felt that it was completely inexplicable that a neighboring property owner could not be notified. Everything that had happened there was a massive detriment to this property.

Commissioner Albritton noted that on the point of the tower and recent approvals, the BOE could not deal with those issues because they were current and not within the timeframe of this appeal. Charles Mueller countered that the Board could consider the towers that had been there before, adding that one had cropped up during the period of consideration.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit C.10-1*).

Dennis Michaud, Appraiser, explained that the property in question was a 4.9-acre parcel on the escarpment with a current valuation of \$125,000 for the land and \$165,450 for the improvements for a total of \$290,450. The property was purchased by the current owners in 1995 for \$285,000. Michaud acknowledged that the proximity of the antenna farm impacted the value of the property. While the antennas and water tanks were not directly between the residence and the views of the Sneffels and Cimarron Ranges they were certainly nearby and were taken into consideration. Other similar lots in the area were valued at \$250,000 based on sales while the subject property was currently valued at half of that. He had no comps, but the rationale was that, at worst, the lot was no worse than a small lot in Loghill Village with no view which was valued at \$135,000, so the subject lot had been adjusted down \$10,000. With regard to the improvement, it was a wood frame house built in 1986, effective year 1993. When appraisers valued improvements they looked at the effective year built. The rationale was that if a house had a lifespan of 50 years in terms of value and if nothing was done after 50 years, it would be worthless; however, ongoing maintenance would extend the lifespan. So they did a judgment call based on the maintenance done. It was considered good quality for the time built. There was a certain amount of depreciation considering that it was 16 years old as of the effective year. The total dollar value was \$97.25 per sq ft. Michaud concluded that the house had been depreciated significantly and the land adjusted for the antenna farm.

Charles Mueller felt that the property had not been adjusted nearly enough for the antenna farm. One had gone up in the last two years without any discussion and he challenged the permit for it. It was Nextel. Landscaping mitigation measures were supposed to have been done for the water tower that had never been done. It was essentially an industrial site and the Assessor had not adequately adjusted for that fact.

John Mueller added that there were also trucks coming up at all times, fans cycling on and off, and maintenance vehicles that impacted the privacy and enjoyment of the property. There was only one water tank there when they bought the property. There was a greenbelt behind the house. He was at a loss to understand how that property changed hands without them knowing about it. They amended the PUD, plain and simple, and did not bother to tell the next door neighbor. They literally have a Dallas Creek lot between them and Sneffels. He agreed that the Assessor

was right that currently the property had unobstructed views. He argued that the Board could not make the argument that it was not an industrial site.

Deganhart explained that when all of the greenbelt was transferred to the recreation district there, Dallas Creek Water reserved the area where the water tower existed. She recalled that it happened in 1997 or 1998. Water tanks and towers had been there for well over ten years. The Assessor confirmed that the deed had been recorded on January 15, 1998 from Dallas Creek Water to Loghill Village Park and Rec. excepting out certain parcels.

Charles Mueller noted that it had been a greenbelt when they bought it and it was not a greenbelt now. He also reiterated that the Nextel tower had happened within the timeframe. Deganhart disagreed, saying that it had been erected four or five years ago. John Mueller countered that a tower went up in late 2007, maybe it was not Nextel.

Commissioner Padgett asked if a 50% downward adjustment was adequate for what existed on the property 18 months ago, which is what the Assessor had done. The Petitioner wanted it adjusted to zero.

Commissioner Meinert asked the Assessor why the downward adjustment had been made on review. Michaud explained that they had adjusted the condition. Commissioner Meinert asked if the 50% downward adjustment and land value had already been built into the original valuation. Michaud was not certain. Assessor Mayfield offered to find the information if the Board thought that it was relevant and wanted to take a break. Commissioner Meinert replied that it was not necessary but had noted that there was a substantial reduction in the valuation of the property.

John Mueller offered that what would be fair would be to go for a 75% reduction rather than a 100% or a 50% reduction.

Commissioner Meinert saw no evidence to convince him that the property had a zero value. The evidence he saw was that the Assessor's Office had made a good faith effort to make a devaluation to the property in the timeframe.

Charles Mueller asked if the land could be devalued, why not the house. Commissioner Meinert explained that it had already been taken into consideration with the \$97 per square foot that was presumably part of the review reduction value from \$365,450 to \$290,450. Michaud explained that the adjustments on the improvement were on quality and condition not for location.

Commissioner Padgett understood that it may be appropriate to learn if the house had been devalued at the same rate as the land. She could see the point of doing so to have them both devalued equally at 50%. She asked if a motion could cover that.

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Albritton to settle the matter of Schedule Number R003746, recognizing that the Assessor's Office had adjusted the subject lot downward by 50% to account for the nearby antenna farm and its nuisances, that no further reduction was supported by the Board; however, the Board would want to ensure that the buildings on the subject lot had been devalued by 50% the same as the land. Discussion.*

Michaud agreed that the Assessor could adjust it so that the improvement would get a 50% adjustment, as well.

Commissioner Padgett moved that the improvement enjoy the same 50% downward adjustment as the current adjustment to the land.

Commissioner Meinert asked how many other properties had been similarly adjusted in consideration of their proximity to the antenna farm. Michaud replied that this was the only one.

Commissioner Padgett added that this was the closest and most impacted parcel and that the others would have to prove strenuously that they could hear the air conditioners, etc.

Commissioner Meinert felt that the issue went back to the purchase price of \$285,000 in 1995 and that there were already water towers and antennae there at the time. He was corrected that there was only one water tower and no antennae. Charles Mueller added that there was also a greenbelt.

Commissioner Meinert pointed out that this had not all happened in the last two years.

Charles Mueller explained that it was just coming to light. They had seen the towers cropping up and the big tower had just cropped up in the last few years. They did not realize that Dallas Creek owned it until the tower discussions had taken place.

Commissioner Meinert noted that there was a matter of due diligence that the Commissioners could not answer to.

Charles Mueller replied that he was not asking them to. He asked the Commissioners to look at what was on the ground and understand the impact.

Commissioner Albritton asked what would be the implications to other properties as far as the residential aspect. The Commissioners had discussions on the property when a protest was made before and the value that was quite a bit higher was upheld. The conditions had not changed in two years other than potentially a higher tower. The only difficulty she had that was by upholding it two years ago not enough had changed to reduce it more than it had already been reduced for the home piece that was conservatively valued at \$97 per square foot.

Commissioner Meinert understood the rationale but had not seen evidence by the Petitioner that would verify the notion that the discount should apply to the structure in addition to the 50%

discount on the land valuation. He accepted that it may be the case but the Petitioner had not provided evidence to support it. The burden of proof was on the Petitioner to provide evidence to support further devaluation.

John Mueller advised that the Petitioners were not insisting on a zero value.

Deganshart provided an aerial map of the area done by the GIS Department for the tower case (County Exhibit C.10-1) and entered it into the record. She suggested tabling the hearing to get other data.

Commissioner Meinert restated that the contention was that the valuation of the property had changed so dramatically including the valuation of the house as a result of the tower construction, whether water or other towers, in the last two years that the Board should consider reducing the value not by just 50% on the land but 50% on the structure.

Commissioner Padgett did not want to get hung up on past assessed values. She understood that there was some infrastructure to a rural house such as a leach field and landscaping that did not get moved when a house was relocated.

John Mueller felt that if it was logical to discount the land it was equally logical to discount the house.

Commissioner Meinert could accept the argument that if it was logical to devalue the lot value, and if there was a structure on the property, it was logical to devalue the structure as well.

A roll call vote was taken on the motion with the following results.

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

**11. Property Owner: David L. Mueller
Schedule Number: R003865**

Commissioner Albritton addressed the appeal on Schedule Number R003865 for David L. Mueller and explained for the record that Charles Mueller had the same authorization to represent David Mueller as he had been granted in the two previous appeals.

Charles Mueller withdrew the petition on Schedule Number R003865.

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Meinert to accept the Petitioner's withdrawal and that the current valuation [\$165,000] by the Assessor be upheld on Schedule Number R003865. Discussion.*

John Mueller asked if all of the tax assessor's records for the entire county over the last four or five years were part of the public record and Assessor Mayfield replied that they were. John Mueller asked if they were supposed to be available on the internet and Mayfield replied that they were to a certain extent. John Mueller pointed out that the last four or five times that he had tried to access it he was locked out.

A roll call vote was taken on the motion with the following results.

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Commissioner Albritton closed the public hearing.

1:15 Commissioner Albritton recessed for lunch and reconvened at 1:36:

**D. 1:36 12. Property Owner: Robert M. Sprentall
Schedule Number: R001532**

Robert M. (Bob) and Gail Sprentall attended by phone. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present from the Assessor's Office.

Commissioner Albritton opened the public hearing on Schedule Number R001532 for Robert M. Sprentall.

The Clerk swore the Sprentalls in. Previous information supplied by the Sprentalls with their Appeal was entered into the record (*Petitioner Exhibit D.12-1*).

Bob Sprentall explained that he and Gail had made an appeal to the Assessor and received the Notice of Determination denying their request saying that one of the methods used in evaluation of their property was the sales price divided by the adjusted square footage of the residence of comparable sales. Several years ago they appealed the Real Property Valuation and presented the same methodology and were told at that time that this was really not how evaluations were derived and they went through a very long process. What they wanted to verify is what methodology is used to determine the valuation of assessed properties.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit D. 12-1*).

Dennis Michaud, Appraiser, explained that they looked first at the value of the land based on any vacant land sales that they could find and set the land values accordingly. Then they looked at improved sales and put every improved property into different categories depending on quality of construction, condition, age, etc. and then map that to actual sales. That was how they set the values on those sales. As a "sanity check" they looked to see if the total dollar per square foot of a given property was somewhere in the range of reasonable given sales. In other words, they used a dollar per square foot after characterizing all of the properties and set the values on that basis.

Bob Sprentall recalled what was said was that it was set by the market approach. Michaud agreed saying that it was based on sales, which was the market approach. Gail Sprentall asked Michaud to clarify because what he just said was that it was based on square footage and then he said that it was based on similar sales. Michaud clarified that they had to look at the dollar price per square foot of sales and then mapped that to non-sales properties to get a similar price per square foot for houses that did not sell, such as the Sprentalls. Bob Sprentall replied that that sounded okay and recalled that basically, two years ago they filed an appeal and went through a long process of looking at the square footage of the basement and whether finished or unfinished, main level, second story, loft area, garage, etc. What you are saying is that it has changed since two years ago. Michaud replied that it had not and that the Sprentalls had misunderstood. He explained that the Assessor's Office built a model of an improvement of a house differentiating the different components of a house to generate an overall price per square foot. He used as an example a simplified version of a house that sold for \$100,000 and was 1,000 square feet and explained that it would be \$100 per square foot. In the example, the simplified house was a one-story house with no basement, no garage or second floor. From that they would get a square foot value for a main living level of a single-story house.

Bob Sprentall clarified that what Michaud described was an adjusted square foot value and Michaud agreed. Michaud continued. The next step would be that the Assessor's Office would look at two-story houses of 1,000 square feet, 500 on the first floor and 500 on the second floor, to determine a value for the second floor. That way they would get adjusted values per square foot for each of the different living and nonliving areas such as decks and garages.

Bob Sprentall understood and continued to explain that, basically, when they got the denial of their request to the Assessor the first time the reason was that they took the comparable that the Sprentalls had submitted, took the total sales price and came up with an adjusted square footage price. The reason the Sprentalls were looking at a review was that the Assessor's Office took the total price of the sale instead of breaking it out as far as land and residence valuations. In his exhibit he looked at the residence valuation and divided it by the square footage. Once he did that he got on the Assessor's Office's website and found the Property Record Card with the information there already. Of the comps they submitted, the cards showed the residence value and the adjusted square foot and came up with a rate. His concern was that when he looked at the rate, the adjusted square foot value, he referred to his comparable, R001365, it showed an adjusted square foot rate of \$118.97. Also, on property R005016, it showed an adjusted square foot rate of \$118.56, all in the Elk Meadows subdivision. They had a comp on Log Hill. Then he looked at their property, R001532, and their adjusted square footage came out to \$123.50. Their adjusted square foot rate was approximately \$5 higher than the other comps in the same subdivision. They would like to have their house valued close to the same as the others. That was the first concern that he had. They also looked at the condition. Theirs was rated as average. Of his comps, one was average and another was above average. And the second issue they had involved the land valuation. Their price per acre, they only had .6-acre lot, one comp had 1.3-acre lot and one had a 2.34-acre lot, theirs came out to \$100,000 per acre, one came out to \$67,000 per acre and a third one came out to \$75,000 per acre. This represented discrepancies in the price per acre that he attributed to views and location. What he was asking for was that their rate for the adjusted square footage on the residence be adjusted accordingly to equal or match the other two comparables in their subdivision and the same with the land making sure that it was comparable. In the original letter from the Assessor it stated that market values had increased 12% but their valuation had increased by 24%.

Michaud explained that the way the Assessor's Office valued land in Elk Meadows was that there were two lot values, \$60,000 and \$88,000, based on size. That was the only trend they could find based on sales of vacant land. The Sprentalls did have a smaller lot and was valued at the lower rate for the land. Gail Sprentall noted that their lot was \$100,000 per acre for a smaller lot as compared to \$67,000 and \$75,000 per lot for one and two acres. Michaud explained that it was not valued on a per acre basis but on a per lot basis. Bob Sprentall countered that theirs was at \$60,000 and one of the lots' valuation was at \$88,000 and the third lot was \$176,000. Michaud explained the third lot was higher because it sat on two lots. As for the improvements, Michaud referred to the Sprentall's letter dated July 14. Bob Sprentall explained that it was the letter he sent in but since that time he had found better and more accurate information from the Property Record Cards on the Assessor's website and that was where he got the information he referred to earlier as far as square footage values. Michaud began to speak to the differences in improvements. Because the Sprentalls did not have a copy of the Assessor's exhibit to refer to, Assessor Mayfield left to fax a copy to them. *[The Sprentalls were put on hold until the Assessor returned and the Sprentalls received the document.]*

Michaud discussed the comps he used in Elk Meadows and referred to the second page of the Assessor's exhibit. The first column referred to the Sprentall's property and its characteristics. It was a .6-acre lot, a 1½ story log home with two bedrooms and two baths built in 2000, construction quality was good quality, average condition, and the adjusted area was 2,335 square feet. All of the comps were in Elk Meadows. Two of the three were the same that were used by the Sprentalls. Schedule Number R005016 was on a 2-lot parcel. There was a significant adjustment to the land value of \$116,000, which was a negative adjustment to the sales price to accommodate for the value of the land. The building was 11 years older than the Sprentall's house and was adjusted for age. It was 1½ story so it received no

adjustment for architecture style although it was not a log home. A positive adjustment was defensible for log homes but it had not been applied here. It was also a two bedroom and two bath, and was an adjusted 500 square feet smaller than the Sprentall's property. The adjustment for the 500 square feet was taken at the rate of roughly \$120 per square foot. There was a \$65,000 adjustment to the price making the total adjusted sale \$409,000. Using that sale comp alone and making the appropriate adjustments to their lot and parcel, the Sprentall's house should be valued at \$409,000.

Michaud went through the same rationale with the other two comps. The second comp was also 1½ story, a little smaller than the Sprentall's property – about 300 square feet less, it was not a log home but clapboard siding, it was older than the Sprentall's home, it was on a bigger lot so it was adjusted down \$28,000 bringing the adjusted total value to \$360,000. The last comp was a small house so he put less weight on it because of the significant size difference. It was a significantly different house than the Sprentall's but was in the same range as the other two comps. Michaud concluded that based on this data a value of \$360,000 was easily supported but the Assessor currently had the Sprentall's property valued at \$348,320.

Gail Sprentall referred to R001365 and noted that was not the house they were comparing it to. It was a totally different home. Bob Sprentall clarified that R001365 was not clapboard. Michaud replied that he had referred to it as clapboard, perhaps Masonite siding. Bob Sprentall said that the one they had for R001365, and they were very familiar with the home, was more of an aluminum siding. Michaud said that it could be aluminum but it was a "clapboard style". Bob Sprentall agreed that it was clapboard style. Michaud added that the sale price was \$354,000.

Bob Sprentall explained that based off of the Property Record Cards that were on the website, using the residence value alone for the home with \$255,700 and dividing that by the adjusted square footage would yield the \$118 per square foot rate. That would be the same for the second comp Michaud spoke to that was on 2 lots. Just the residence value alone came out to \$215,500. When divided by the adjusted square footage of 1,834 it came out to \$118.56 per square foot. But then in reference to theirs with a residence value of \$288,000, which was just the residence value minus the land value, divided by the adjusted square footage of 2,334.61, it would yield a \$123 per square foot rate. His question was that if all of the homes were of good quality and average condition, actually one home was above average condition, why was theirs rated at almost \$5 per square foot more. Michaud explained that the house that was rated at above average condition was only rated at average quality. He hoped that the Sprentalls would agree that an aluminum or vinyl siding, 1½ story home was not of the same value as a considerably newer log home. The Sprentall home was rated at good quality construction and average condition, which is the same quality and condition as R005016; however, R005016 was quite a bit older than it resulting in a lower dollar per square foot rate. Not every house gets the same exact dollar per square foot rate because of the variations in quality, condition and age.

Gail Sprentall felt that they had addressed all of that two years ago when they appealed at that time. They addressed the quality, condition and age, as well as submitting their house plans to the Assessor to enable the Staff to value each portion of the home appropriately. They thought that those had already been established for their home. They were also told that the appraisal process was not relevant two years ago when they submitted their appeal, but that it was based solely on the square footage. They went to great lengths to correct the valuation of their home according to the type of square footage it was. Then suddenly, when they thought they had everything appropriately valued theirs went up 24% instead of the 10% to 12% like everyone else.

Commissioner Padgett explained that it seemed that the crux of the discussion was really comparing the Sprentall's house with R005016. In the information that the Sprentall's provided the square footage listed for R005016 was 2,176 square feet, but to really compare apples to apples they needed to take the value of the residential structure of R005016 and divide it by the adjusted square footage. Bob Sprentall agreed and noted that the residence value of R005016 was \$217,500 and the adjusted square footage was 1,834 square feet that calculated to roughly \$118 per square foot. Commissioner Padgett explained that when she divided it she got \$124.54 per square foot using \$228,410 divided by 1,834 that she took off of the Sprentall's exhibit. Gail Sprentall acknowledged that the information on their exhibit was incorrect and that was why they were referring to "your" information on "your" Property Record Card. Bob Sprentall clarified that the correct information from the Property Record Card was \$217,500. Commissioner Padgett looked at the residence card that showed an actual value of \$228,410. When she took \$288,320, the Sprentall's value, and divided it by the adjusted area she came out with \$123.53 per square foot. That helped her to compare that house to theirs. The two houses were amazingly close.

Bob Sprentall countered that Commissioner Padgett was looking at what was called an extra feature occurrence on the Property Record Card that added roughly another \$10,900 to the value. Commissioner Padgett explained that she was taking the residence valuation at the bottom of the Property Record Card and dividing it by the adjusted area of each structure. Bob Sprentall agreed that she was correct but there was an abstract code of 1212 single-family residence improvements and down below... he did not understand... it got back to the extra feature occurrence that he did not understand. To move things along, Commissioner Padgett clarified that what she got out of the Sprentall's letter was that they were looking for their dollar per square foot to be similar to the house on 2071 Aspen Drive [R005016] and that they also thought that their accurate valuation was something close to \$290,360. Bob Sprentall replied that would be correct if looking at 12% more than what it was valued at two years ago. Commissioner Padgett was willing to propose that given the fact that the dollar per square foot was so close, if the Board was able to adjust the Sprentall's price per square foot from \$123.53 to \$124.54 that would give an approximate residential value of \$290,750.62 and the Sprentall's were requesting \$290,360. She asked if that would address their concerns. Bob Sprentall replied that no, what they were looking at was the \$290,000 as compared to their valuation two years ago of \$254,000, for both the residence and the land. The way they arrived at the \$290,000 was by taking 12% times the \$254,000. Gail Sprentall clarified that it included both the land and the building. Bob Sprentall calculated that by taking the adjusted square footage value, \$118,000 [sic] and multiplying it by the square footage it would come to roughly \$260,000 and if the \$60,000 was added for the land valuation they would be looking at \$320,000. What he was looking at was something in a range between \$290,000 and \$320,000.

Commissioner Padgett apologized for misreading the letter and request. So far what her calculations were then showing her was that the Assessor's Office had good evidence to support both the land value and the price per square foot value that they came up with on the Sprentall's structure.

Gail Sprentall was thoroughly confused about the adjusted square foot because it was directly off the Assessor's Property Record Card and it was the information that the Assessor was presenting and it was clear that theirs was at \$123.50 compared to the others at \$118. Commissioner Padgett tried to clarify that to come up with the \$118 it was not using the adjusted area and they had to use an adjusted area of 1,834 square feet for R005016. Bob Sprentall explained that they had used the 1,834 square feet and divided it into the residence value of \$217,500 off of the Property Record Card. He questioned where she was coming up with the \$228,000, noting that there was something else added on to it. Dennis Michaud clarified that they were speaking about R005016. Bob Sprentall confirmed that they were and noted that the residential value was \$217,500 but there was an extra feature occurrence that he did not know what it was. Michaud explained that it was a barn/RV/garage-type structure. Bob Sprentall pointed out that it was a special feature and not part of the residence. He was trying to isolate the residence. Michaud explained that they used the adjusted square foot concept. Bob Sprentall said that he was using the adjusted square foot value right off of the Property Record Card. Gail Sprentall said to look at the Property Record Card. They got the rate right off of "your Property Record Card." Michaud replied that he had it in front of him and he was looking under abstract code 1212 single-family residence improvements with a total actual value of \$228,410. Bob Sprentall reiterated that it included the extra feature occurrence because the residence was valued at \$217,500 and this was adding \$10,900 for the extra feature occurrence. Gail Sprentall suggested that the Assessor's Office needed to back down to the \$217,500 to isolate the residence. Bob Sprentall added that it would then come out to a rate of \$118.56 per square foot. Michaud explained again that the reason was because the houses were not exactly the same. The R005016 house was older, not a log home— Bob Sprentall interjected that was the purpose of the "adjusted" square footage. It was no different than the other property, R001365, where again it calculated out to an adjusted square foot value of \$118.97. Again, he thought that was taking into consideration the quality, condition, siding, etc. He thought that was what the adjusted square footage value was for. It should be putting everyone on the same playing field. Michaud explained that the rate was derived from the total value that was a compilation of the different living areas multiplied by a base value adjusted by a certain factor for age and another factor for condition. One would not expect to see the same dollar rate for two properties that were of different ages, for example. If there are two properties of the exact same design and construction, quality, everything, but are different ages, the one that is ten years older will have a lower rate per square foot than the newer one. That was why the Sprentall's home was at \$123 per square foot versus \$118 per square foot for the one that was 11 years older than theirs.

Gail Sprentall noted that those were taken into account two years ago and they went through the appeal process and established all of that information. So, if that had been established and those adjustments for age, condition, construction and quality, etc. had already taken place when their home was properly valued two years ago then why is the Assessor's Office doing it again and hitting them with a 24% increase as opposed to a 12% increase for everyone else. Michaud explained that the Assessor's Office did the revaluation every two years based on sales data from the more recent period. There had been significant increases in the sales prices in Elk Meadows. Gail Sprentall stated that for the sake of information there was another newer home in Elk Meadows that was newer than theirs that was also log and siding, and their valuation went down this year. Michaud explained that one other factor from two years ago was that the basement had been finished since the last revaluation. Bob Sprentall agreed that their valuation should go up but again it went back to the adjusted square foot. Now it was being considered as a finished basement and would increase the valuation. Another concern they had was that from two years ago their second story was classified as a loft and now it was classified as a second story. The R001365 home had a loft. Why was theirs no longer a loft. Michaud explained that there was some confusion in the past between what was a loft versus what was a second story but when a house had dormers with a full height ceiling on the second floor it was no longer a loft, it became a second floor. A loft had sloped ceilings and a lot less usable space resulting in less value. Gail Sprentall countered that the Assessor still maintained a loft in one of the comps at R001365 that has dormers. Michaud explained that it had a loft and a second story. Gail Sprentall argued that theirs was the same and, incidentally, the portion of their home under the dormers was qualified as a second story, the rest of it was a loft. That was established two years ago on appeal and she wanted it corrected. Michaud said that it was classified as second story based on the plans they had. Bob Sprentall said that the plans they submitted showed a bathroom, which was the second floor, and the rest was a loft and that was corrected two years ago. Gail Sprentall claimed, "...and suddenly it went away." Bob Sprentall stated that according to the plans on the website it shows a second floor and a loft area separated out but the Property Record Card just lists it as a second floor.

Bob Sprentall explained that the bottom line that the Board of Equalization could not deny was that they were looking at either adjusting the residence value downward to match the average rate of \$118 to \$119 a square foot or go back to what Commissioner Padgett was talking about on taking 12% times the valuation of two year's ago because that was what the valuation was worth. He was not disputing an increase. Because of the finished basement they should be looking somewhere above the \$290,000 range and, in his mind, maybe even closer to the \$320,000 range. Michaud countered that he was not taking into account the fact that it was a newer home. Bob Sprentall said that according to Michaud that was where the adjusted square foot values came into play and the consideration had taken place. Michaud clarified that what he said was that there would not be the same rate because of different ages, conditions and quality. Bob Sprentall said that was a judgment call and was not what was established two years ago based on their appeal.

Gail Sprentall explained that their source of contention continued to be that two years ago they took this clear to the state level on appeal and at that time they came up with a valuation that everyone agreed was accurate for the home, it was fair, and that was totally agreed on by all parties. Now suddenly that seems to have been discarded. They would be happy if the County would acknowledge that the valuation of two years ago was correct and go ahead and apply the average 12% increase to that figure.

Commissioner Albritton explained that was not how the revaluation system worked. Every two years was a new game depending on what the comps were and the new information that was brought to the table. Whatever happened in past cycles did not remain stagnant; it was a dynamic changing system and that was why they did the revaluation every two years. The information changed, the comps changed, the neighborhoods changed, etc. There was the increase in the overall values across the county but each property and each neighborhood experienced its own growth or lack of growth depending on the relevant sales.

Gail Sprentall said that two years ago when they appealed, they tried to appeal it based on market values and immediately the County insisted that was not relevant information so they immediately went to valuing the home according to the square footages and their classifications. Two years ago the County did not like the market value and this time you do.

Commissioner Albritton explained that the County had to use market value. She was not sure what Gail Sprentall was referring to but the system was tied to market value very definitely and the County could not ignore the market.

Gail Sprentall argued that two years ago the County did.

Commissioner Albritton disagreed.

Commissioner Meinert explained that he had not seen any evidence to support the Sprentall's contention that the value should be \$290,000 for the land plus the residence and following the methodology that the Assessor's Office laid out he found that the Assessor's valuation of \$348,000 was supported by the facts.

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in the case of Schedule Number R001532, property owner Robert M. Sprentall, that the evidence presented by the Assessor was convincing and the Assessor's valuation of \$348,320 for the house and land should stand. A roll call vote was taken on the motion with the following results.*

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Bob Sprentall advised the Board that both he and his wife disagreed and when they received the determination they would be taking it to the next step. He was advised by the Board of Equalization that it was his right to do so.

Commissioner Albritton closed the public hearing.

2:40 Commissioner Albritton recessed and reconvened at 2:54:

**E. 2:54 13. Property Owner: Sean David Greengard
Schedule Number: R001226**

Sean David Greengard attended by phone. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present from the Assessor's Office.

Commissioner Meinert opened the public hearing on Schedule Number R001226 for Sean David Greengard and explained that the Chair, Commissioner Albritton, had stepped out and would be delayed in joining the hearing.

The Clerk swore Sean David Greengard in. Previous information supplied by Greengard with his Appeal was entered into the record (*Petitioner Exhibit E. 13-1*).

Sean Greengard appreciated the Board taking the time to meet and listen to him. He was put off by a fax he received today [*the Assessor's exhibit*]. He thought that he would have received the information with his Petition. He was only given a short period of time to go over the numbers. He was given this property by his parents and had worked on it for years. It started off as a ranch including a barn, homes, a garage, Quonset hut, stables, chicken coops, etc. He has worked on it to renovate it and make it as naturally beautiful as possible. He was trying to expand the hay ground. His intent was not to sell but to hold it for his own benefit and his neighbor to use for hay and grazing. He read an article in the *Ourray County Watch* about property value increases on real property. He noticed that the agricultural value of property countywide increased by \$22,540. He was put off when he received his assessment that his property was being increased by \$2,830, which was about one-eighth of the entire county's agricultural increases. That seemed to him to be overreaching in the fact that there were only 24 acres on this property and given the current economic and real estate market. He asked what was the justification for the increase. As far as he could tell there had been nothing on his side and not much agricultural land had sold. He did not see the justification even using the numbers he had received today by fax. The actual and assessed values were wrong in his mind.

[Commissioner Albritton returned at this point in the hearing.]

Greengard continued. He referred to page two of the faxed notice giving a graphic example of the irrigated and dry land of how the Assessor determined the valuation [*Assessor Exhibit E. 13-1*]. He was confused about the Landlord's Gross Income number and how it was generated. Should be an individualized number and each property owner who has a tenant has a different income from each property. He was an owner/landlord and leased the property to his neighbor for hay and grazing. The actual value of the property was at \$420.78 per acre was high. There was no basis for such a number. The actual value when he ran his numbers... It turned out from the example that the Total Gross Income was \$229.31 and the landlord's share was 50%. He did not know of anyone who charged 50% to their tenant for rent, otherwise with expenses and overhead they would have no profit whatsoever. Commissioner Meinert asked if he had communicated the terms of his lease with his tenant to the Assessor's Office. Greengard replied that he had. It was "Exhibit B" of his submittal (*Petitioner Exhibit E. 13-1*) that showed his calculations. He was using the grazing and meadow hay calculation not the irrigated or dry land farming. When he used his income divided by the number of acres, his actual value per acre was different from the Assessor's of \$420.78. He was confused at to how they got those numbers.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit E.13-1*).

Raelene Freier, Chief Deputy Appraiser, explained that the valuation of agricultural (ag) land was based on a land's ability to produce an income. A very important component was the soil type. They had his 24-acre piece as irrigated farm land. Currently, within the state and established by the State, there were four different types of irrigated farm land. Type IV was the lowest. What they had to do was to determine the productivity of the land. Currently and historically his land was irrigated farm land with a yield of 2.3-ton per acre. That was only one component that they dealt with. When they deal with the commodity price...

Greengard interjected that his lease was not based on the gross or on the commodity price, he just had a fixed rent per year and from that the only expenses he had was the long-term replacement of fences, etc. The gross had nothing to do with him. He was not an owner/operator. The calculation using the gross and deducting 50% off of the gross to calculate the rent... no one pays 50%. His whole point was that the calculation would make sense if it was valuing him as an owner/operator of an agricultural property. But the valuation should be for an owner/tenant using an income approach. Since his income was fixed by a long-term negotiation, he knew that his particular tenant did not make a lot of money and he just wanted a reasonable rent. He acknowledged that he had asked for small rent increases through the years. During the applicable time period he was receiving \$1,600 per year for 65 acres. For the 24 acres at issue today, he received a total of \$664 per year.

Commissioner Meinert asked the Assessor's Office, recognizing the figures being used by Greengard, what latitude did the Assessor's Office have in property valuation. Was this a fixed methodology or did they have latitude to take into consideration the actual experience of the landowner. Freier explained that it was a fixed formula bound to by the State. The State provided the commodity price, landlord expenses, baling expenses, etc. The only thing researched independently was water expenses, fertilizer and herbicide to accommodate for fluctuations in local markets. The only latitude would be in researching those costs locally. It was a statewide formula that all of the counties had to use on irrigated land. The yield was what the property had been historically, and then the Assessor followed the formula to determine the valuation. When they calculated the cost of fertilizer and pesticides, etc. they surveyed local ditches and talked to local ranchers on roughly what the cost was annually and then used a ten-year average.

Sean Greengard stated that amazed him because he spoke with the appropriate department personnel in Denver, the State people, who told him that each county did its own thing – that the guidelines were just that, guidelines. San Miguel County did not do anything like this for owner/landlords. The used it for owner/operators but for owner/landlords. If his property was so lousy then why was it set at the highest value per acre on page 2 of the Assessor's exhibit? Freier explained that this was for Class IV soil type irrigated land. There were three other classifications higher than this that were not in Ouray County. This was what the property had been historically. There had been no changes. Greengard asked why if there had been no changes, the value had jumped 28%. Freier explained that the cost of the commodity had been greatly affected as were some of the costs. The figures from the State changed. Greengard asked that despite the fact that there had been only a \$22,000 increase to the county considering all of the giant ranches in the county, had none of them gone up. Freier explained that he was talking about an actual valuation and that there was a difference between an actual valuation and an assessed valuation. Greengard said that he understood but if the assessed valuation countywide for ag property had only increased \$22,000, \$3,000 of that roughly had been allocated to them. If this was standardized, why did not all of the other ag land in the county jump by 28%? Freier explained that on the Class IV irrigated land it went up the same as his because they were all valued at the same per acre. Greengard referred to an article in the paper by the Assessor. Assessor Mayfield explained that she did not have the article in front of her but she could go to her office and retrieve it to get the exact figures. Commissioner Albritton asked who had written the article but Greengard did not know. Assessor Mayfield pointed out that it was irrelevant to look at the newspaper article without her exact numbers in front of her. Greengard suggested that this was the kind of thing that created doubt and mistrust in the taxpayers. When he sent in his initial protest or appeal, what he got back was a very odd letter that said that he must not understand the difference between residential and agricultural property valuation. It did not include the explanation that he got fifteen minutes ago, which would have been helpful because he could have spoken to someone and not wasted all of the Board's time now. When it got to the bottom line on the assessment of this property, the assessed value was \$122.03 per acre. It showed above that that the Landlord's Net Income was \$54.70 per acre. What they were actually getting during relevant time period was \$24.61 per acre, which generated a valuation of half of what was it was already being valued at. He asked if someone would take him from the last number on the sheet of \$122.03 per acre and explain how 24 acres could generate an assessment of \$10,000.

Commissioner Padgett clarified that the Petitioner rented the property for \$1,600 for the entire property, which, when divided by 65 acres worked out to \$24.61 per acre. She also clarified that the Petition was for 24.01 acres. Using his figures of \$1,800 she got \$75 per acre. Greengard explained that he had misunderstood what figure to use because he did not have the benefit of the form supplied by the Assessor's Office; however, the lease was naturally on the entire parcel, which was three parcels, and if the \$1,800 was divided by the 65 acres that made up the entire assemblage the result would be \$27.69. They were dividing by \$1,600 that they thought was the timeframe the Assessor was using. Prior to last year his parents, who were the co-trustees of the property, watched over all of it. He and his sister received it in the last couple of years. He asked the Board to excuse his naïveté. A simple error on an exhibit did not bind him in any way as he learned in law school. The facts are the facts. The facts are that the information in front of the Board showed that it was a 24.01-acre parcel and he was receiving roughly \$660 for this particular parcel.

Commissioner Padgett asked the Assessor's Office to provide more information and background on the three types of Class IV classifications on page 5 of the exhibit and to explain how they came into play.

Freier explained that these were the predominant types of irrigated land in Ouray County and were based on their yield for the hay. Some of the best hay ground in Ouray County was the Ouray/Ridgway corridor and it had been historically classified as Type IV B. Mr. Greengard also had a piece on a hillside that had the Assessor had classified as wasteland because it could not yield but being part and adjoining to the ag land that he had it was considered agricultural. The Assessor's Office oftentimes had to look at the property the ranch had. Not all of the land would equally produce the same. The Potters next door had four different types of agricultural land. This was true of most of the ranches. This particular parcel was what it had been historically for quite some time. The other components were

the same for everyone, the baling expense, the water expense, the fertilizer expense, the price for the hay was almost pretty much standard. She suggested that everyone keep in mind that the report the Assessor puts together, before Staff ever put the valuations to task, they had to give it to the State who reviewed the calculations. If the State saw something that was at odds or did not fall within the tolerance guidelines, the State would kick it back to the County and Staff may have to look at it again. This was not something that Staff dreamed up. She explained that the formula was a formula that the State used and the State provided them with a spreadsheet where Staff filled in the blanks. There was not a lot of leeway.

Greengard thanked Freier for being familiar with his property. He wanted everyone to understand that he was a young man doing his best to hold onto his parents' legacy. Maybe he should have been charging Potter more than he does. But his biggest concern was that the formula seemed to be more appropriate for an owner/operator. What relevance did gross income have to him when he did not receive any part of it? The question he still did not understand, he could follow on the page of the Assessor's exhibit that had the actual numbers regarding irrigated or dry farm land, but at the very bottom for the assessed value of \$122.03 per acre he was trying to figure out that times 24 he did not get \$10,100 as the assessed value.

Freier explained that he was confusing the market value with the assessed value. The \$10,100 was the actual market value of the property. The assessed valuation was \$2,930.

Greengard talked about the assessment notice that he received that showed the Current Year Actual Value was shown as \$10,100 and the Previous Year's Actual Value was shown as \$7,270 for an increase of \$2,630.

Commissioner Padgett explained that was the actual value and that the County did have quite a spike in property values across the county for all different kinds of land uses and land types eighteen months ago and that was the period under consideration today. With his assessed value of \$2,930 is property taxes would be about \$125.

Greengard admitted that he was embarrassed to have wasted his time and the County's time for \$125 and he was also embarrassed to admit that \$125 was a lot to him at the moment. One thing that concerned him was that he did not see any change in anything from the last valuation to now that would have generated this change in valuation and that was what threw him from the beginning. Generally speaking he went back to look at the history of the various agricultural parcels that he and his sister inherited and they seemed not to have changed much over the years and they had this property for 20 to 25 years. The percentage change was more than in all of the prior years. He was just asking to be treated fairly. He asked for one last answer to his question about the last number on the sheet, \$122 dollars an acre, and how to go from that number to the \$10,000 of actual value. Freier asked him to look at the bottom line on the sheet he was referring to and asked him to multiply the Actual Value figure of \$420.78 times 24.01 acres to get \$10,100. The \$122.03 was the Assessed Value that would give him the \$2,930 figure.

Commissioner Meinert expressed the need to wrap this up. He recognized that the Assessor had little latitude in how this was valued and the valuation was what it was. He suggested that Greengard could continue the discussion with the Assessor's Office and the education on this would be good for both sides. If, after that discussion, he was still not satisfied, he had further recourse.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in regards to Schedule Number R001226 in the name of Sean David Greengard, that the Board uphold the Assessor's valuation of \$10,100 actual value for this agricultural land. A roll call vote was taken on the motion with the following results.

*Commissioner Albritton voted in the affirmative
Commissioner Meinert voted in the affirmative
Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Sean Greengard thanked everyone for their time and stated that he very much appreciated it. He considered it to be an education. His only concern was that there were a number of landowners who had property in that corridor that held it not for investment, not for the view or retail, but because they loved the land and if the increases continued to happen in that corridor there would be increased pressure for people to sell and that would be a tragedy for all who loved Ouray County.

Commissioner Albritton closed the public hearing.

**F. 3:39 14. Property Owner: Enchanted Mesa Properties Corp.
Schedule Number: R000446**

No one was present on behalf of the Petitioner.

Commissioner Albritton opened the public hearing on Schedule Number R000446 for Enchanted Mesa Properties Corp.

Susie Mayfield, County Assessor, submitted a packet of information (*Assessor Exhibit F. 14-1*).

Raelene Freier, Chief Deputy Appraiser, advised that the Assessor's Office had been contacted by representatives of the owners of the property concerning a residence located on the Enchanted Mesa's agricultural parcel. Their contention was that the house was unlivable. Assessor's Office Staff went up to take a look and found that while the bones of the structure were solid, it was in pretty bad shape. The windows were failing, the roof was shot, there were holes where woodpeckers and animals had eaten through the walls, and the decks were shaky. It needed work. The ranch was using it for storage. It would take a significant amount of work to rehabilitate the house. They thought a fair mitigation would be to reclassify the structure as an agricultural structure and devalue it, calling it a utility building, with

a valuation of \$25,380. It would no longer be assessed as a residential structure but as an agricultural structure at the 29% rate. The owner agreed and stipulated (see *Assessor Exhibit F.14-1*).

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to acknowledge and accept the stipulation on the valuation of this property, Schedule Number R000446, as presented [the residence was reclassified with a new adjusted value of \$25,380]. There was no discussion. Motion passed unanimously.*

Commissioner Albritton closed the public hearing.

3:46 Commissioner Albritton adjourned the special session:

(See separate page for the continuation of the July 27, 2009 regular session of the Board of County Commissioners)

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

ATTEST:

Heidi M. Albritton, Chair

K. Keith Meinert, Vice-Chair

Michelle Nauer, County Clerk and Recorder
By: Linda Munson-Haley, Clerk of the Board

Lynn M. Padgett, Commission Member