

The Board of County Commissioners met in special session on July 30, 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.**

8:00 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. 8:00 1. Property Owner: Vogelaar Family Partnership LLLP
Schedule Number: R001605**

Anita Vogelaar attended by phone. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present.

Commissioner Albritton opened the public hearing on Schedule Number R001605 for the Vogelaar Family Partnership LLLP.

The Clerk swore everyone in who would be presenting testimony.

Anita Vogelaar had previously submitted a packet of information to be entered into the record (*Petitioner Exhibit A. 1-1*). She explained that she was doing this herself. The attorney for her mother's estate wanted to do it but she felt that it was too expensive and she was of modest means. She would try to do as good a job as possible. This was on the valuation of her mother's house at Black Lake. Her mother passed away in early 2008. This property was part of her estate and, as such, was appraised for the estate. It was to the family's advantage to have it appraised at the highest valuation possible. The attorney did a lot of the work on this mainly because even though her mother's estate was way below the federal taxation level it included a trust from her second husband. She hired Marv Ballantyne, appraiser, and Arnold Butler from Grand Junction to look at the house at the time of her mother's death. They felt that it had a competitive market value of \$250,000. She then had them do an assessment six months later that came in about \$2,500 lower because the market was stagnant at the time. Her exhibit included part of the appraisal and an IRS field audit of the appraisal. The house had a lot of issues. Butler felt that it would sell better if the house was demolished and sold just as a lot. She referred the Board to her exhibit. The main problem with the house was its livability because most people would want a more modern house. All of the rest of the houses at Black Lake were at least triple the size of her house with multiple bathrooms. The subject house had one bathroom with no shower and a substandard tub. One of the bedrooms was 8' x 13' and the other bedroom was 11' x 11'6", which was problematical for people who had bigger beds than a single or double. She asked the Board to turn to page 25 of the exhibit. To make it a more livable house one would need to add to the square footage. It had a fair amount of problems, structurally, and in the basement water came in a lot and there were some problems with having to cope with that. There were mold, bats and radon issues that she felt could be remediable, and a very old oil furnace. On page 32, she referred to the comps with other houses that sold. She and the attorney asked the appraiser at the time if he thought that it could sell for more than \$250,000 and he said no. Most of the value was in the site. It was hard to find a house to compare to because of the actual size. The appraiser chose two houses that sold in Whispering Pines that were both larger and of fairly newer construction. The subject house was built in 1954 by the man who owned it at the time and her parents bought it from him in the 1950s. The appraiser felt that the house had some value and that the lot, itself, could sell for \$200,000 or more in his opinion. The Grand Junction appraiser felt that if the house was razed the valuation would be less than \$250,000 but more than \$200,000. She thought that the appraiser had done an adequate job of appraising the house and she was appealing this because the attorney advised her to do it as the executrix of the estate.

The Assessor's Office submitted a letter dated July 22, 2009 with attachments (*Assessor Exhibit A. 1-1*).

Dennis Michaud, Appraiser, advised the Board that he had inspected the property but had not gone inside. The appraisers from Montrose and Grand Junction were not as familiar with the area as they could be. There were ten lots in the Black Lake area, which were unique in the county and in the state. This house sat right on the edge of the lake with fantastic views of the lake and the mountains. The house sat lower than some of the other lots in the development; however, it was a beautiful site. The appraisal submitted by Anita Vogelaar indicated that, too. Before the protest period the property was valued at \$335,780 and was reduced after the protest to \$298,300, with \$235,850 for the land and \$62,450 for the house. The appraisal submitted by the Petitioner valued the house at about \$50,000 and the lot at about \$200,000. There was not much difference percentage-wise but he felt that he could not ethically go any lower than what he had it at already. The house, while not in the same category as the other houses in the subdivision, it was a livable structure with two bedrooms and 1 bath, a little over 1,100 sq. ft. and good-sized attached garage. It was an older structure and was significantly depreciated as such. It was valued as a fair quality structure in poor condition and as such was valued at \$39 per square foot. He agreed that the bulk of the value was in the land. It was difficult to find suitable comps that were recent in the area. The comps used by the Petitioner's appraisers, two from Whispering Pines and one from Fidel Court, were hardly comparable to a site at Black Lake. What the Assessor's Office used were significantly older comps in the Black Lake area from 2003 and 2004. The sale of the one in 2003 was \$500,000 and the one in 2004 was \$800,000. If the Assessor's Office devalued the land on the Vogelaar property they would have to do similar on the remainder of the subdivision. Doing that would drive the other properties even lower, which would be quite a bit below the actual value. A couple of these properties were currently on the market for \$1 million. He called the Commissioners attention to the comps used in the Whispering Pines subdivision and noted that the appraisers had adjusted the site in Whispering Pines by \$20,000 to \$30,000 to get it equivalent to the Black Lake site. He suggested that there was a much greater difference between the Whispering Pines site and this

spectacular site at Black Lake. In addition, the site in Whispering Pines was only one-third of an acre whereas this site was one acre with open space around it. He believed that the Petitioner's appraiser was very conservative in his conclusion. Michaud reiterated that in good conscience he could not go below \$298,300.

Commissioner Padgett asked the Assessor's Office, after hearing what a spectacular lot this was, why the land was valued at \$30,000 less than the comps they used for the other parcels. Michaud explained that the subject lot sat lower and did not have the views of the other lots on the hill. The Assessor had given an 11% discount on the land because of that. Commissioner Padgett asked what criteria were used to decide if a structure was of average quality, below average quality or above average quality. Michaud replied that they looked at the materials used and the time it was built, its utilization – did it have a sufficient amount of bathrooms and bedrooms for the market today, and the appliance situation. This was somewhat below what the market was looking for. Commissioner Padgett asked Michaud if they had considered the spring flooding in the basement and he said that they took it into account.

Commissioner Meinert asked why an adjustment was made during the protest period from the original valuation of \$335,780 to \$298,300. Michaud explained that they put an 11% discount on the land because of where it was situated, reducing the land from \$265,000 to \$235,000. The structure was reduced in both quality and condition. Before the protest, it was average quality and below average condition. The Assessor did not have access to the inside. When the Assessor's Office got the appeal and saw the pictures and description from the appraiser, they lowered the condition from below average to poor and the quality from average to fair. Commissioner Meinert confirmed that the Assessor's Office had in hand the Petitioner's appraiser's analysis, summary of condition, size, and interior condition when they made their review and reduction. Michaud agreed that it had been based on the description and photos from the Petitioner's appraiser because they had not been inside.

Commissioner Padgett expressed confusion with the Property Record Card that showed the quality as being average quality. She asked if it had been changed because it still represented an adjusted square footage rate of \$38.98 and she was concerned that the computer was still using that quality. Assessor Mayfield clarified that that particular quality did not drive value. She referred Commissioner Padgett to page 1 of 3, and pointed out that the base value was what drove the value. The Assessor's Office would correct the other incorrect information. Commissioner Padgett added that it was important to point out that the computer had used the correct formula.

Commissioner Meinert recognized that the comps the appraiser selected were in a different subdivision, Whispering Pines, that did not have the location premium that Black Lake had, but they were sales that occurred in 2007, within the valuation period. The comps the Assessor's Office used were in 2003 and 2004. He asked Michaud to comment on the validity and preference for using the Assessor's Office's comps, which were older, versus the most recent comps that were not as close to the subject property. Michaud explained that the Assessor's Office would love to have enough sales to just use the 18-month period from 2007 to June 2008. That was seldom the case in Ouray County and the Assessor's Office could go up to five years back. In 2003 and 2004 the values were not going down in that area. The values he used had not been inflated. They were very conservative numbers. He felt that using a conservative number, although more dated, in the same area was more valid than using something outside of the area that was more recent. Commissioner Meinert noted that the comps the Assessor used were larger and more modern structures but the real significance in using those comps was for the land valuation in the same area.

Anita Vogelaar responded. There were no qualified appraisers in Ouray that would be able to meet the standards that her attorney was looking for and both of the appraisers they hired had extensive experience in Ouray. Butler had done quite a few estate appraisals around Lake Lenore. She felt they were familiar with the area and were able to do an excellent job of appraising things in the area. When looking at the land value as part of a whole sale, it was always a subjective determination of how much was the land and how much was the residence. The last lot that sold at Black Lake sold for \$150,000, maybe it was in 2003. The lot at the time was an improved lot with a septic system and water. She pointed out that her lot would always have a flooding problem. Both of the houses the Assessor's Office used as comps were much, much larger in size. The first comp sold in August 2003. It had been completely rebuilt in 1998 and it now had five bathrooms. It had been totally rebuilt in 2006, also. The second house that sold for \$800,000 was enormous with about 4,700 square feet. Unfortunately, her house was not even considered good enough to have the annual meeting in. She wished that the house would have the best possible value for her purposes but she felt that if it was appraised at this figure and at some point she would hope to live in it again, it would have to be changed and added on. It was barely livable in its current state. Her daughter lived there with her husband and they closed off the basement. It could not be rented in its present condition because of factors that would make her libel for all sorts of problems, particularly in the basement. She concluded that she would leave it in the Commissioners' hands and hoped that they would find an equitable solution. Her attorney told her that she must do this and he was quite adamant about the fact that she get a good and accurate appraisal.

Commissioner Meinert was concerned with Michaud's statement that any change to the land value would call into question land values in the area. The Assessor's Office had already dropped the value by \$30,000 predicated on the location differential. He could understand the Assessor's Office's concern about land value. The land valuation was probably the most valid and easiest to get a handle on. The improvement valuation was the more subjective. He sympathized with the fact that the condition of the house was such that anyone buying property would probably scrape the house and start afresh. Because of that he wondered if there was any scope for reduction in the house value. He accepted that \$39 per sq. ft. was low for the area but he also understood from the Assessor's Office that they put a zero value on the basement. Michaud corrected that it was near zero. Commissioner Meinert wondered whether there was legitimate scope for reconsidering the improvement valuation, which would not affect other valuations in the area.

Michaud observed that in order to go much lower they would have to put it at salvage value. Commissioner Meinert asked if the quality and condition criteria were already at the low end of what they could be. Michaud replied that if it were a newer structure of average quality and average condition, the same size structure with an attached garage, it would currently be valued at \$185,000 as opposed to \$62,000.

Susie Mayfield thought that if they changed the unfinished basement to storage, it would be 5% instead of 25% of the value. Freier went to the office to run the figures.

Anita Vogelaar commented on the comps used by the Assessor's Office, when they were built, the figures used for the improvement values were much lower than the actual figures for the cost of building them. She agreed with the new house with the same square footage scenario, but pointed out that the garage and area in back was basically storage at best and the garage was not only unfinished but little better than a carport. She trusted the amount that came back from the highly qualified appraisers because she and her attorney had talked at length with them. She reiterated that it was much to her benefit to have it appraised at a higher figure. She talked about trying to sell it at an even higher figure but felt that it would have been unethical.

Commissioner Padgett commented on the land value and sympathized that it was hard having had appraisals done for the purposes of settling an estate and wanting the Assessor's Office's values to match her appraisers' values. She did not see anything in the appraisal that Vogelaar provided that mentioned open space and amenities. The Assessor's Office considers those but sometimes outside appraisers do not. A lot of a similar size in a different subdivision may not enjoy the same privacy, amenity, etc. The County had to give merit and weight to land values based on comps, even though older, taking into consideration those concepts. Vogelaar agreed and thought her appraisers had taken those concepts into account but felt that the dues to keep the open space were higher than those of Lake Lenore. Both appraisers felt that the lot would sell between \$200,000 and \$250,000 just on its own.

Michaud related Freier's calculations that if the class was changed from unfinished basement to storage the value would change from \$62,450 to \$54,850.

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Meinert regarding Schedule Number R001605 owned by the Vogelaar Family Partnership LLLP that the Assessor's Office value of the land, recognizing it had been discounted approximately 11% based on topography and location, stood at \$235,850; and that the basement area of the existing structure be reclassified from unfinished to storage and it is the understanding that the reclassification would give the improvement the final assessed value of \$54,850. Discussion. Commissioner Padgett asked to clarify what the total adjusted value would be for the land and improvements would be. Commissioner Meinert amended his motion to note that the total adjusted value of the land and improvements would be \$290,700. Commissioner Padgett seconded the amended motion. 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 Padgett asked Mayfield to provide a list of qualified appraisers who specialized in Ouray County to the Petitioner. Assessor Mayfield replied that Anita Vogelaar had the name of Jim Link in her letter, who was very good as an estate attorney.

Commissioner Albritton closed the public hearing.

**B. 9:00 2. Property Owner: Gerald J. Daub Revocable Trust
Schedule Number: R003130**

There was no one present on behalf of the Petitioner.

Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present.

Commissioner Albritton opened the public hearing on Schedule Number R003130 for the Gerald J. Daub Revocable Trust.

The Assessor's Office submitted a letter dated July 21, 2009 with attachment (*Assessor Exhibit B.2-1*).

Raelene Freier, Chief Deputy Appraiser, explained that the parcel in question was a 40-acre tract in the north end of the county on the corner of Sumac and Sage Brush. She explained that the Assessor's Office was currently reviewing the land values in this area. In order to bring Daub's valuation in line with neighboring properties the Assessor's Office recommended adjusting the current valuation from \$172,000 to \$132,000. Daub agreed and stipulated to the amount of \$132,000. The stipulation was signed by Gerald J. Daub on July 27, 2009 and was attached to *Assessor Exhibit B.2-1*.

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to acknowledge and accept the stipulation between the Assessor's Office and the Gerald J. Daub Revocable Trust for a revaluation of \$132,000 on Schedule Number R003130. 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.

9:02 The Board of Equalization recessed to reconvene as the Board of County Commissioners for a continuation of the regular session of July 27, 2009 and continued from July 28, 2009: (See separate page for minutes from the Board of County Commissioners for July 30, 2009)

9:48 The Board of County Commissioners reconvened as the Board of Equalization:

**C. 9:48 3. Property Owner: Gisela G. White
Schedule Number: R002758**

Gisela and Randy White attended by phone. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present.

Commissioner Albritton opened the public hearing on Schedule Number R002758 for Gisela G. White.

The Clerk swore Gisela and Randy White in.

Randy White referenced the materials that he had submitted prior to the hearing (*Petitioner Exhibit C.3-1*). He explained that he would be speaking and that the lot, while technically owned by Gisela as a matter of convenience, was a family possession. At this point Gisela White authorized Randy White to speak on her behalf. Randy White began by saying that this was an appeal based on the data in his exhibit. The core of appeal is a logic that says that we framed the comparative evaluation upon the guidance provided in one of the documents sent to them during this process that indicated that the approach to valuing sales for comparison was an eighteen-month period ending June 30. They began the initial challenge to the evaluation using that information but then it became apparent that the Assessor's Office used a timeframe outside of this. They did not have enough time to prepare a rebuttal to the Assessor's comps. There had to be some compromise to either go by the 18-month timeframe and look at older evaluations within that timeframe and take a gross average of the properties inside the timeframe, which was the core of the logic in the documentation, rather than looking outside of the timeframe. The property that was most like the subject property in his exhibit was Lot 525 with a value of \$120,000 as of the date of sale in November 2007. It was property on the course with a view and he apologized for not having a photo of it. He asserted that their property was like 525 and the gross average of the properties that he said were the most comparable was \$135,333. Another point that he made was that there was litigation in process associated with all of the Fairway Pines properties that was interfering with the market value, even back in 2007. It was a huge legal snarl-up including liens being placed on all of the properties there that adversely affected the values of the properties. He did not feel that it was realistic to evaluate the property at \$159,000 in view of that legal snarl-up and in view of the logic he presented with respect to the average value of the properties.

The Assessor's Office submitted a letter dated July 24, 2009 with attachments (*Assessor Exhibit C.3-1*).

Dennis Michaud, Appraiser, explained that the Assessor's Office was, unfortunately, aware of the legal wrangling in the area. Given the number of sales in the timeframe he felt that that consideration had been priced into the market and was reflective of the values they placed. The Assessor's Office went through and categorized every lot in the subdivision, about 420 lots, and placed them into 7 or 8 different categories. The Petitioner's property was in the category of a medium-size lot, on about an acre, on a golf course with mountain views, not exceptional mountain views but mountain views, nonetheless. He verified with Randy White that was the case. Michaud explained that within that category there had been six sales in the timeframe, the sales occurring between July 2006 and October 2007. The median sale price was \$168,000. The Assessor's Office placed all of those lots at a value of \$159,000. They stayed a little below the median to remain in statistical compliance with the State yet still be a little conservative in favor of the taxpayer. That was where the Petitioner's lot fell. He understood Randy White to say that he wanted to consider not only the most recent period but to go back further. In doing so, Michaud pointed out that in the previous valuation period from January 2005 to June 2006 there were 25 sales in the subdivision with a median price of \$88,500. In the more recent revaluation period, there were 32 sales and the median sale price was \$134,500. This showed a significant appreciation in sales in the last two revaluation periods. That probably reflected the takeover of the new owners [*of Fairway Pines*] and hopes that things would get better. He provided a list in his exhibit of all of the 32 sales in the area and indicated the characteristics of each of the lots. The values ranged from a low of \$72,000 to high of \$240,000. He provided a map in his exhibit to indicate where the subject property was on the fairway. The nearest lot to the subject property sold for \$239,000. The next three sold for \$170,000, \$150,000 and \$169,000. Again, all were within the timeframe. He felt that \$159,000 for the value of this lot was quite conservative and well supported by the data.

Commissioner Meinert vaguely recalled a discussion during the previous BOE hearings two years ago where there were concerns about the valuation of lots in Fairway Pines and the characterization of different lots with different qualities. They talked at that time about going through a fairly rigorous study to group the lots that had equivalent aspects together to determine a valuation for those. He asked Assessor's Office to describe the study and how this lot fit in. Michaud explained that there were a lot of sales within the timeframe that provided a good basis to work with. The Assessor's Office analyzed every one of those 32 lots that sold and characterized them according to characteristics that had the same value, characteristics such as were they on the golf course, what was their view orientation, were they near the highway. They established categories for each group and assigned a value based on sales. They went through and looked at every lot in the subdivision and placed a value accordingly. Commissioner Meinert referred to a sheet with sales in the Assessor's exhibit and asked if it represented all of the seven characterized lot groups. Michaud replied that it did. The highest at \$240,000 were in the new Divide Ranch subdivision with exceptional views, good size, and on the golf course. As a group at \$205,000, these were lots with a premium paid for the size, over two acres, they were in new Estates at Divide Ranch. The next highest value group was the one the Petitioner was in, on a golf course with mountain views. The \$122,000 lots were about the same size, around an acre, on the golf course but the views were minimal, mostly wooded with some mountain views. They resembled the pictures submitted by the Whites. The \$115,000 lots were not on the golf course and had no mountain

views. The \$72,000 lots backed up to County Road (CR) 1. Commissioner Meinert asked how many lots were in the group that was the same as the Petitioner's group valued at \$159,000 in total in Fairway Pines. Michaud replied that there were 30 to 50 lots. Commissioner Meinert confirmed that all were valued at exactly the same price because of the shared characteristics.

Commissioner Meinert spoke to the relevance of knowing where the comparables that the Whites submitted fit into the range of sale prices, in particular Lot 525. White suggested that the cross-reference that the Board might be able to use could be the sales prices he listed on his exhibit compared to the sales prices listed on the Assessor's exhibit.

Commissioner Padgett was looking at the cluster of lots on the same fairway and about the same size as the Petitioner's lot that had sold within the timeframe and the average sale price of those three lots was \$163,000, which was slightly above what this lot was valued at. She felt that the question was had the Petitioner's lot been misclassified and did it qualify to be classified with the lots with minor mountain views on the golf course. She did not see evidence that it had been placed in the wrong class.

Randy White suggested that the evidence to illustrate that would be photos of the different lots in the classifications, and a photo of a lot in the \$159,000 classified to compare to a photo of his lot.

Commissioner Albritton pointed out that the only factor to differentiate would be if the lot had obstructed or wooded views as opposed to clear mountain views. Randy White noted that the real estate agents called them "peek-a-boo" views. He could provide that evidence. Commissioner Albritton asked him to compare his lot to the pictures of the comps that he had presented.

Commissioner Meinert elaborated on the reason why he had asked his questions. First, he believed that the Assessor's Office had gone through an unusually rigorous process to find a way to characterize the lots in this area. The fact that this group of properties was such a large group told him that they would have a range of characteristics as far as views. He agreed with Commissioner Padgett that the only question in his mind was whether the lot in question had been appropriately characterized in this large group of golf course, mountain view, 1-acre lots. It would be difficult and would take quite a bit of evidence to convince him they had placed the subject property in the wrong classification, but he would look at evidence if it was available.

Assessor Mayfield suggested taking the Commissioners to the lot to view it. Commissioner Albritton replied that if it was okay with the Whites the Board could take a field trip to view the site. White offered to send a photo of their lot to compare to the other lots in that category. Commissioner Albritton suggested that the Board continue the hearing to August 3 at 2:30. White related that if they stand on the road above the lot they could see the views but if they get at the elevation where the house would be built trees obscured the views. Everyone agreed to visit the site today after the meeting.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to continue the hearing on Schedule Number 002758 with the Whites to August 3, 2009 at 2:30 p.m. There was no discussion. Motion passed unanimously.

The public hearing was continued.

**D. 10:36 4. Property Owner: Lawrence W. Gallagher
Schedule Number: R006012**

Lawrence and Barbara Gallagher were present. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present.

Commissioner Albritton opened the public hearing on Schedule Number R006012 for Lawrence W. Gallagher.

The Clerk swore Lawrence and Barbara Gallagher in.

Larry Gallagher submitted a packet of information for the record (*Petitioner Exhibit D.4-1*). He had lived for 15 years in Ouray County and had two homes. He lived adjacent to the property in question. They had subdivided two years ago. In that process they discovered that their neighbor had subdivided his property and sold it to Millstrom who then approached the Gallaghers and made an offer right out of the box for their property. His reasons had to do with expanding his property and making sure that the Gallaghers did not block his views. His motivation may have been substantial. He referred to his letter in the exhibit and explained that there were two or three subjects they wanted to approach. First, in their opinion the property was worth \$120,000, which was half of what the Assessor's Office appraised it at that represented a 33% increase over 2008, which according to their research was five or six times over the norm in their area, on Log Hill. In addition, they looked carefully at the properties listed as Loghill Crest that encompassed about 1,100 or 1,200 acres that someone had subdivided in the past and was how the Gallagher's got their property. Their property was part of Loghill Crest and they concentrated their comparables there. Secondly, they compared their property to the rest of the world. They complained that it had not been taken into account that there was no County-maintained road to their property. They had to take CR 1A that had base gravel that had been placed there by individual private property owners, there was no snow removal, they had no community water service, and no fire hydrants. It was a single lane road. It was not fair to compare his property in some ways with most of Loghill Crest or even the Assessor's Office's comparisons. It was one thing to say that they did not have a paved road but, really, they did not have any roads that were County maintained. The other thing was to take a look at where they believed the Assessor's Office may have gotten this high increased evaluation. It was their understanding that the Assessor's Office was not to use an adjoining property. Because of the adjoining neighbor's reasons for buying the property that Larry Gallagher alluded to earlier, the neighbor may have paid an inflated price. He asked the Assessor to address the question of whether she could use an adjoining property owner's position on buying the land. Also, that same property

owner was responsible for... he bought originally from Al Campbell who had subdivided his property, but it all came down to the same thing, that one property owner in a real close area. He referred to his graph. The left bar titled "Others in Loghill Crest" represented every property listed on the Assessor's Office's website as being in Loghill Crest. Not including the Whites' property that represented 564 acres. The average assessed value on those properties was less than \$9,000 per acre. There was only one other property that was about the same size, an 11-acre parcel, represented in the middle bar on his graph. That parcel was on a paved road, had natural gas, had fire hydrants, had community water and snow removal, and was located in a very high visibility beautiful lot. Its assessed value was \$13,000 per acre. The Whites' property was assessed at \$24,000 per acre.

Commissioner Padgett questioned the location of the 11-acre parcel. Larry Gallagher explained that it was listed on the Assessor's website as Log Hill Crest but it was possibly in the Divide Ranch. After looking at the property card it was determined that it was in the Divide Ranch. Barbara Gallagher pointed out that it was still assessed at \$13,000 per acre.

Larry Gallagher noted, in summary, that according to his graph his property was almost twice as high as the next highest property, and that was only one, and 2.5 times higher than the \$9,000 average in Loghill Crest. He referred to a map in his exhibit showing the original Loghill Crest layout. Millstrom, who originally bought from them when they were developing it and who bought Al Campbell's property, was just adjacent in Tract 25. Another thing he and Barbara did besides looking at Loghill Crest, was that they looked at six or seven properties in the nearest major development, Fisher Canyon, where those properties' prices went down in assessed values. They looked at other properties in Alpenview, which was two miles away as the crow flies. He noted that the properties within a two-mile radius of his property went up nowhere near the level that his had gone up, and he wondered why it would affect his property and not everything else in the two-mile radius. The Gallaghers believed with certainty that a lot of the reason why their property had appraised that high was because of Millstrom. Larry Gallagher added that in the true definition of a sale, Millstrom had not paid for it. He asked the Assessor to address that point along with the point of whether she could count an adjacent property owner. Barbara Gallagher added that it was mainly the fact that when they went online and looked at all of the lots in their area, they were all consistently valued at \$9,000 per acre and were off of a portion of Ponderosa that was not paved but was accessible whereas their lot was not. Al Campbell did all of the work on the road.

Commissioner Meinert spoke to the notion of a no maintenance road. Is this true that it was a county road, CR 1A? The Gallaghers affirmed that it was. Commissioner Meinert asked if they had access to CR 1A. Larry Gallagher said they had it from Ponderosa. Commissioner Meinert determined that the adjoining property, Millstrom, was in the eastern half of Tract 25 and the Gallagher property was the northern portion of Tract 24. Commissioner Meinert noted that in their development of the per acre comparison the Gallaghers had used the term "assessed valuation" but he pointed out that there were two different values shown on the cards, the actual value that was like an appraised value and then the assessed value that, if it was a vacant lot would be 29% of the actual value. He asked what number they used. Larry Gallagher said that they had used the actual value. Commissioner Meinert clarified that one of the Gallaghers' contentions was the amount of increase that the property had been valued at from the previous period to this period. Larry Gallagher replied that it went from \$91,000 to \$240,000. He concluded that the \$90,000 for ten acres was exactly inline with the rest of Log Hill Crest today at \$10,000 per acre for the actual land value.

Assessor Mayfield addressed the issue of percentage increase in general. She called the Department of Property Taxation (DPT) on that issue. The DPT experts stated that there was no statute that regulated and/or restricted percentage increases because it was based on the market. In saying that, due to the lack of restriction on the Assessor's Office, there was no statute, no regulation, on percentage increases on property because it was all based on market valuation. Conversely, there was no limit on how much the values could decrease in an area. In the absence of a statute limiting percentage increase there was no limit.

The Assessor's Office submitted a letter dated July 21, 2009 with attachments (*Assessor Exhibit D.4-1*).

Dennis Michaud, Appraiser, explained that there was another factor at play. When doing a lot split, a subdivision, the value of the total lots that were subdivided from the original lot, the total value had to add up to the original value of the lot in the first year causing it to look artificially low until it went to market value. He thought that what happened with this lot was that it did not go to market value in the fall of 2008 because \$9,000 per acre was correct. That was what all of the large acreages in Log Hill Crest were valued at. Michaud discussed that the Assessor's Office had looked at the sales in the area. He referred to a map in his exhibit. The bulk of the analysis was on PUDs and subdivisions, not 35- to 40-acre parcels. The owner for the timeframe was just to the north of the subject property at R-5805. A table on the following page had a breakdown of the lots. The subject property was not included in the analysis and was not used to generate the values shown on the table. It was included for reference purposes only. Michaud talked about why a sale would get disqualified when it was an adjacent property. It had the potential to not reflect the true market value. It could be artificially low. Maybe the person was a good friend of the Gallaghers and they gave Mr. Millstrom a good deal. Or maybe it was artificially high because they were enemies and they knew that Mr. Millstrom really wanted the parcel at all costs. Michaud advised that Millstrom's sale was disqualified and was not counted.

Michaud next discussed a graph showing the value per acre. Lots were not valued on a straight per acre basis and varied in size. He noted that there were sales included that the Assessor could use that were within the five-year time period but that they were not adjusted for inflation; the sale prices shown were the actual sale prices at the time of sale. Some of the lots were in Fisher Canyon and some in Alpenview Meadows, which was a Log Hill Crest lot that was subdivided two or three years ago. He referred the Board to the pictures in his exhibit of the properties that surrounded the subject property. The picture on the upper left was Millstrom's lot with a large Butler building and 1,200 square feet of a single-family residence finished inside and hookups for four RVs, the next on the right was the Gallaghers, in the middle on the left was Al Campbell's house, which was also on CR 1A and due west of Millstrom's RV lot. The picture of the gravel was the driveway entrance from CR 1A to Millstrom's RV lot. Larry Gallagher protested the picture because it made it seem that there was a big, long road there but it was a single-lane, rough road going out to the top of the picture. This picture of his driveway implied that there was a major access there which was

not the case. Barbara Gallagher stated that Millstrom's property had nicer roads than any road in the county. Michaud referred back to the pictures and noted that the log home on the lower left corner was northeast of the subject property and was R-3072. It was a nice area with nice properties and nice building lots but definitely not on a paved access.

Michaud turned to the charts in his exhibit that indicated all of the sales that were listed as points. The Assessor's Office used this method to extrapolate the sales values of lots of different sizes in an area. The established a trend line with a high confidence interval of 94%. If the subject lot had been plotted on the curve it would have been \$280,000. The Assessor's Office suggested a value of \$240,000.

Commissioner Meinert asked if methodology was commonly used or accepted by the valuation bible and the State statutes. Michaud explained that it was a statistical analysis method for determining values. There were multiple ways to look at it. The key was to look for trends in value and it was good to find a trend with a high confidence level.

Commissioner Meinert asked how the Assessor decided when to use a per-acre valuation or a single, comparable lot valuation. Michaud explained that the per-acre valuation tended to be on large lots, per lot size tended to be on smaller lots. They needed to look at how the market treated it. If there were two-acre lots being sold at the same price as half-acre lots the Assessor would use a per-lot basis. Larry Gallagher asked referred to the Ouray County Sales Analysis Report and that every lot that was not a lot of acres, every single one had all of the amenities they spoke about. The average price of the large acreages on the list was \$10,000. Michaud explained that he was trying to derive a straight price per acre. Larry Gallagher pointed out that the top half were all on paved road and the bottom half were at \$10,000 per acre.

Commissioner Padgett explained that the lot had additional value because it was a potential building lot. The crux of the appeal was whether the parcel had been devalued appropriately considering the lack of utilities and access. If so, she asked for evidence that the parcel was suffering in market value because of lack of utilities and maintained roads. She saw no comps on the table reflecting that supposition. Secondly, she asked if the value of the other part of the Snowshoe Subdivision had been treated differently or received similar consideration and did it suffer the same lack of utilities and access. Larry Gallagher said that referred to his home that had access onto Ponderosa, although it was not paved, they did not have gas or community water. Commissioner Padgett noted that the Assessor's Office had presented compelling evidence with the best available trend curves showing that the parcel was valued appropriately. Michaud argued that lot to the north, 5805, was a lot that indicated a lot value and it sold for \$375,000. The next smallest lot, 2659, was a 10-acre lot that sold for \$250,000. In this area, those were the only two large-sized lots and the Assessor's Office set Gallagher's value lower than the lower price of the two. He was trying to be conservative. Frankly, Michaud argued, \$120,000 was absurd. Larry Gallagher agreed. Lived here 15 years and never complained about taxes. This stands out like a sore thumb compared to everything else in the area. He compared the parcel to a 13-acre parcel in Fairway Pines on paved road with everything else that was valued at half the value of his parcel. Michaud explained that it was part of a large transaction from when Divide Ranch bought Fairway Pines and bought many acres. It was an area that the Assessor needed to look at because it was probably undervalued. Larry Gallagher stated that when the Assessor was talking about comparable sales and was then not counting the sale that almost went through for Millstrom but the mere fact that it was mentioned was a bit prejudicial.

Commissioner Meinert asked about the reduction in valuation during the review period from \$300,000 to 240,000. Michaud explained that the Gallaghers had pointed out that the accesses were not what they could be, the property did not have immediate access to water and would require a well, and the Staff was trying to accommodate those factors. Commissioner Meinert the thing that struck him with regard to the per-acre valuation was that when he looked down through the list of other property transactions, not a single piece of property with a building site on it was anywhere near the price of \$120,000 that the Gallaghers were suggesting. It was obvious to him that a piece of property with a buildable building site on it would have to have a comparable value to other properties with building sites that had sold. The suggested value of \$240,000 was much lower than all of those for a much larger piece of property. He did see that the curves seemed to support the argument that the weighting of the valuation of the property should be towards the valuation on a building site basis rather than a per-acre basis but he did not see justification anywhere close to the suggested valuation that the Gallaghers were requesting. When looking at the curves and data, the Assessor's valuation of \$240,000 seemed to be reasonable and had taken into consideration all of the valid discounting suggested by the Gallaghers for lack of utility hookups and lack of paved access. He was at a loss as to how to criticize the Assessor's Office's valuation.

Commissioner Albritton asked if by virtue of the sales that had occurred and that the values had gone up proportionately based on the market value, what had happened to the surrounding properties. Had they seen the same increase? Michaud explained that the value on 35-acre parcels was still \$9,000 an acre, because they were still 35s and had not been subdivided and sold. The same increase would apply after the first year if that happened. Larry Gallagher noted that the sale prices in Fisher Canyon average \$240,000 for four-acre lots yet it went down to \$128,000 in assessed value this year. He asked how that could happen.

Commissioner Meinert made the point that the property was valued by its use as a building site that undermined any per-acre comparison when subdividing occurred. That was why higher density property was more highly prized by developers and more highly valued that property in a 1:35-acre density.

Commissioner Albritton acknowledged that the Gallaghers had made a logical appeal based on what conclusions they drew that were logical conclusions.

Commissioner Padgett observed that the market was not challenged by lack of the access and utilities. People would pay a premium despite that.

Larry Gallagher concluded that he and his wife were not here to say that anyone was being unfair to them other than the fact that they felt that the sale they made to Millstrom had affected not only this lot but everyone around it. The big

lots, \$10,000 per acre, were totally different from the little lots that were on paved roads with utilities. If left to stand, the parcel would be 240% of the average acre lot.

There was more of the same discussion.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett in reference to Schedule Number R006012 that, based on the data that the Assessor's Office presented, the Assessor's valuation of \$240,000 was valid and should stand. Discussion. Commissioner Padgett pointed out that the value had been reduced from \$300,000 and was a very conservative valuation. 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.

**E. 11:45 5. Property Owner: Donald French
Schedule Number: R003281**

Donald French attended by phone and was sworn in by the Clerk. Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; were present.

Commissioner Albritton opened the public hearing on Schedule Number R003281 for Donald French.

The Clerk swore Donald French in.

Donald French summarized his letter dated July 12, 2009 (*Petitioner Exhibit E.5-1*). He wanted the Board to consider the viability of the comparable analysis done by his third party appraisal versus what the Assessor's Office did. Until yesterday evening he had not seen what the Assessor's Office was basing its appraisal on. His protest was rejected without explanation. He pointed out to the BOE and the basis of his protest was on a piece of land, 38.5 acres, that he had owned for a number of years with a mobile home on it. In 2008, he constructed a new residence. When transitioning from a construction loan to a financing loan, an independent appraisal was done by the mortgage lender. That appraisal reported to the bank a \$590,000 market value that he had to comply with to get his loan. That appraisal listed the comparable properties that were used. He wanted to highlight that the independent appraisal was done by a third party that he had nothing to do with retaining. The crux of what he wanted the Commissioners to consider was which was the preferable valuation: the third party appraisal that seemed to rely on similar properties of greater acreage or the Assessor's Office comparables that were residences in developments. What he noted on the Assessor's Office's comparables was that there was a tremendous amount of adjustment running through them in terms of a dollar value and a percentage of the sales prices of those particular comps. The adjustments were approaching 30% of the sales value. It was his conclusion that those were not very good comparables if 30% of the sales value had to be adjusted in the analysis. He asked the Board to contrast that with the less than 6% adjustment in his comps. He concluded that he would not be in a position to get financing if he had to rely on the Assessor's evaluation.

The Assessor's Office submitted a letter dated July 29, 2009 with attachment (*Assessor Exhibit E.5-1*).

Raelene Freier, Chief Deputy Appraiser, explained that the subject property was a 38-acre parcel on Highway 550 just south of Ridgway with a new structure that had 3,648 sq. ft. of heated living area, was classified as good quality construction and average condition. The appraisal referenced by French was on September 23, 2008, after the appraisal date of June 30 that the Assessor had to stay within by statute. As such, it was deemed inadmissible in the Assessor's statistical analysis. There were no qualified large acreage parcels in the neighborhood of French's property. What they had to do was to look at sales for homes of the same type of construction, newer, ranch-style with finished walkout basements. The two closest comps were located in the high end of the River Park Subdivision. She explained the adjustments. When they made the adjustment on the land, because they were smaller parcels, they brought their value up to the value of the land of the French property. The Assessor's system did not deem that the number of bedrooms and baths made any difference in valuation. They were all good quality homes. The major difference was in the condition and they adjusted the two homes in the River Park Subdivision with condition classes of excellent down to the same condition as the French property. The comps were also smaller. French's house was deceptively large. Staff had to adjust that square footage to represent the same value per square foot as the French residence. Once the adjustments were made, the adjusted sales prices were within the range of the valuation placed on the French property and, as such, the Assessor felt that was where it should remain.

Commissioner Padgett asked the Assessor why a brand new house would not be rated excellent. Freier explained that at the time it was inspected they were still doing minor finish work on the house. She looked at it last in August of last year and the condition at that time was not at excellent quality.

Commissioner Meinert deduced that when finished the value would go up significantly. Freier replied that it would. He referred to the heated area of 3,648 sq. ft. in the Assessor's appraisal, and in the third party appraisal a gross living area of 2,160 sq. ft. Freier replied that the third party appraisal had not included the first story, the walkout basement. One of the comps that the third party appraiser used, comparable sale #2, that was within the test period, was a large 41-acre site, similar to the 38 acres of the Petitioner, with a similar gross living area of about 3,400 sq. ft., and was a lot closer in comparison to the Petitioner's property than the Assessor's Office's comps. Freier explained that the parcel that

Commissioner Meinert was referring to had two houses on the property. The primary house, the one that was referenced in the appraisal, at the time of the sale was an old, ramshackle, rundown structure. Immediately after the sale the structure was gutted and rebuilt, and the square footage changed along with everything else. When she looked at the appraisal report she noticed that the square footage used in the analysis was the new square footage, not the one that had sold, the square footage of the basement was the old not the new, and there was no reference to a second residence on the property at all. Freier noted another point about French's appraisal was the location of the comps that ranged from Ponderosa Village to as far north as the north end of the county off of CR 22. They were widespread.

Commissioner Padgett asked if any consideration was given when the Assessor's Office had to work with dissimilar situations like this, if houses that were proximal or within a municipal area tended to be of higher value compared to their rural counterparts. Freier explained that it depended on what the market dictated. The houses they used were as close as they could find to French's residence. They were both slightly outside of Ridgway, although River Park had been annexed into the town, they were removed, and they were comparable homes. Commissioner Padgett explained that in looking at all of the information presented the only thing she could zero in on was whether or not there was a meaningful adjustment for houses within walking distance of the town center. Another talking point was that probably the house in question had been given a lesser rating than it should have been.

Commissioner Meinert asked if the valuation placed on the land and improvement was broken out. Freier replied that French's land was valued at \$159,140 for a 38-acre piece in the Valley Zone. She explained that the Assessor's Office looked at vacant land sales in the area. While they did not have any improved sales they had some large parcel sales. She distributed some of the comps in the area that needed consideration as being comparable sales in close proximity (*Assessor Exhibit E.5-2*). They found sales ranging in valuation from the one adjacent to the French's property at \$379,000 to a parcel to the north at \$599,000. All were vacant land and two were agricultural parcels. Assessor Mayfield clarified that the sale of anything currently classified as agricultural could not be used as a qualified sale because, due to its agricultural classification, its valuation was extremely low. Freier added that when the Assessor's Office was doing valuations they were concentrating on areas that needed work and this was not an area they looked at closely.

Commissioner Albritton noted that the disagreement was more with the residential rate because the land was low in comparison to adjacent lands.

Commissioner Meinert stated that it was relevant in coming up with a determination as to whether the Appellant's argument was valid or the Assessor's Office's valuation more valid. He believed that the Assessor had called into serious question the validity of the assessment by the appraiser. There was a serious question as to whether the land value was anywhere near as high as it should have been, and a question of the condition of the property being rated at just average rather than excellent for a brand new residence. Those questions convinced him that the Assessor's valuation, if anything, was far too low, not too high. Commissioner Padgett and Commissioner Albritton agreed.

Donald French acknowledged that it was a reasonable conclusion that the appraisal was not done correctly by the third party appraiser. That was the whole basis for his proceeding, to ascertain if his appraisal was superior to the Assessor's. Based on what he heard he was convinced that it was not.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett that, based on the factors considered today in regard to Schedule Number R003281 in the name of Donald French, the information the Assessor placed before the Board would justify a value of at least as much as the Assessor valued the property and the decision was to let the value stand. [The Actual Value Prior to and After Review was \$659,230 according to 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.

Donald French asked for a copy of the land comparables used by the Assessor.

Commissioner Albritton closed the public hearing.

12:23 The Board of Equalization recessed and reconvened at the site of Schedule Number R002758 for a site visit to the White property:

2:34 After concluding a site visit to Lot 125 of Fairway Pines Estates, the Board of Equalization continued the hearing on Schedule Number R002758 to August 3, 2009 at 2:30 p.m.:

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