

The Board of County Commissioners met in special session on July 28, 2010. Those present for the session were Lynn M. Padgett, Chair; K. Keith Meinert, Vice-Chair; Heidi Albritton, 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.**

9:00 The Board of County Commissioners convened as the Board of Equalization to consider the following property valuation appeals:

Commissioner Padgett 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.

Susie Mayfield, County Assessor; Raelene Freier, Chief Deputy Appraiser; and Dennis Michaud, Appraiser; with the Assessor's Office were present.

**A. 9:00 1. Property Owner: Michael (and Janie) Wible
Schedule Number: R003068**

The Petitioners Michael and Janie Wible were present.

Commissioner Padgett opened the public hearing on Schedule Number R003068.

The Clerk administered the Oath to Assessor Mayfield, Chief Deputy Assessor Freier, Appraiser Michaud, Michael and Janie Wible.

Commissioner Padgett disclosed that she knew the Wibles but that they had no personal or financial interest in common.

The Wibles had submitted a Uniform Residential Appraisal dated March 31, 2010 with their appeal that was entered into the record as *Petitioner Exhibit A. 1-1*. During Michael Wible's testimony, Janie Wible submitted other exhibits that were entered into the record. The house was built in 2006. In 2007, their valuation went from \$286,090 to \$1,105,720. In 2008, they received a valuation notice with an increase of \$7,470 and in 2009 it jumped \$54,080 to \$1,167,270. They discussed it with the Assessor's Office who then lowered it by \$31,090. They had the house appraised and it came back at \$850,000 (*Petitioner Exhibit A. 1-1*). Mr. Wible understood that the County assessed the value at 70% of the market value to which there was head shaking all around to indicate that was not so. He explained that he understood that the market dropped beginning around 2007. He discussed the discrepancy between the independent appraisal value and the County's assessed value.

Janie Wible interjected that the comparisons used by the appraiser to arrive at an appraisal of \$850,000 expired last month and the houses that had sold recently had really dropped. She discussed two reports that she submitted identified as Paragon Reports, CMA Summary Report, 2009 Tax Year, 1/1/09-12/31/09 and 2010 Tax Year, 1/1/10-6/30/10 entered into the record as *Petitioner Exhibit A. 1-2* and *Petitioner Exhibit A. 1-3*, respectively, along with MLS listing information on the properties in the reports entered as *Petitioner Exhibit A. 1-4*. She pointed out the huge discrepancy between their home and the properties that had sold adding that their home had no view. She noted that they had to maintain Snowbush and Saguario, as they were not County-maintained roads. The appraisal was done on March 21 and she did not have anything more recent but the \$850,000 was based on the prior seven to twelve months. From the four to six months from March 31 back, the comparables were down to \$650,000 (*Petitioner Exhibit A. 1-5*). The best thing she was finding now for something comparable to their home sold at \$530,000.

Assessor Mayfield entered a letter dated July 27, 2010 from the Assessor's Office to the Board of Equalization regarding Account R003068 into the record (*Assessor Exhibit A. 1-1*). She explained that a site visit was made to the subject property by the Assessor's Office and as a result the value was lowered prior to the CBOE hearing. Additionally, she and Chief Deputy Appraiser Freier did a site visit to verify the information. She proceeded to read from *Assessor Exhibit A. 1-1*. With regard to Residence #1, after the site visit Staff recommended that the building be reclassified as a detached garage and the square footage be corrected to reflect the actual garage area of 3,744 sq. ft., that the area currently classified as a second floor residence be reclassified as a 1,256 sq. ft. studio, and that a storage area that had not been reflected on the County's records be added to the structure valuation. The recommended changes would reduce the current valuation of Residence #1 from \$216,030 to \$163,580.

Staff recommended that Residence #2, a single-story, 3,818 sq. ft. residence that was currently classified as a two-story structure, be corrected to reflect that the correct classification was "ranch-style" and that the quality be changed from "very good" to "good." The recommended changes would reduce the current valuation of Residence #2 from \$748,150 to \$671,860. No changes were recommended to the current land value.

She summarized that Staff recommended that the total valuation for 2010 be reduced from \$1,136,180 to \$1,007,440.

Freier explained how the two structures were valued.

Commissioner Padgett asked if the comps from the March 31, 2010 Uniform Residential Appraisal Report (*Petitioner Exhibit A. 1-1*) were within the timeframe that the Assessor's Office was allowed to consider.

Freier replied no, the sales were not in the timeframe that the Assessor was required to use by State Statute. The 24-month window for the revaluation was based on July 2006 through June 30, 2008. These sales were in 2009 and 2010.

Petitioner Gayle Sprentall appeared by phone and was sworn in.

Gayle Sprentall explained that she was appealing Schedule Number R001532, located at 2850 Aspen Drive in Ridgway, Colorado. According to the Ouray County Real Property Notice of Valuation all property in Colorado is revalued every odd numbered year. Her 2009 valuation of \$348,320 was currently under review by the State Board of Assessment Appeals (BAA) pending the results of the hearing that took place on June 22, 2010. That appeal was based on an arbitrary reclassification of the loft on the second floor that was contrary to an agreement reached with the County Assessor upon appeal in 2007 where they provided proof that the loft classification was correct according to the floor plan. Then the valuation of the home was increased by an unreasonable percentage for the year 2009 when compared to other homes in the subdivision. At the BAA hearing, she and her husband, Robert Sprentall, presented data that was compiled from the County Assessor's Property Record Card to substantiate their contention that the home was overvalued for the year 2009. The decision of the BAA had not yet been finalized. In order to reach an agreement in good faith with the BAA at the hearing on June 22, they stated to the BAA that they would accept a valuation of \$290,000 for 2009. The 2010 Notice of Valuation, from what she could tell, appeared to be placed at the 2009 inflated value of \$348,320 plus an additional \$24,000 for the addition of a detached garage. The garage was completed in September 2009 when a Certificate of Occupancy was issued. They agreed that the addition of the garage in the amount \$24,000 was correct. If the valuation of the garage was added to their asserted good faith valuation to the State BAA, the corrected 2010 valuation should stand at \$314,000. Their appeal of the 2010 valuation was based upon the fact that the valuation of the home for 2010 should be placed at the 2009 corrected valuation that will be set by the State BAA plus the \$24,000 for the addition of the garage. They were trying to ensure that their 2010 property valuation was properly set based upon the expected correction for 2009 and they wished to avoid finalization of the 2010 valuation until the corrections for 2009 had been received.

Dennis Michaud explained that he had nothing further to present other than that, as indicated, there was a hearing before the BAA and a decision was pending. The value for 2010 reflected the value that the Assessor's Office presented at the hearing plus the \$24,000 for the detached garage. The Assessor's Office stood by its 2010 value.

Commissioner Padgett asked if the 2010 value would be based on the decision of the BAA for 2009.

Michaud replied that the 2010 valuation was an independent valuation.

Deganhart asked if Michaud had prepared an appraisal of the property for the purposes of the BAA hearing and if the value that he had arrived at in the appraisal of the property was in excess of the 2009 value that was currently before the BAA.

Michaud agreed. The appraisal that was used at the BAA was about \$20,000-ish above what the property was valued at for 2009. That was without the garage and was supported by comparables from the same subdivision.

Commissioner Meinert asked about the process of revaluation and how the Assessor's Office arrived at the valuation in years that were not revaluation years. Ms. Sprentall's contention was that in the even years when property was not being revalued, the value of the property was the same as it was in the revaluation year plus any changes that had taken place. The Assessor's Office concurred. What she was suggesting was that the outcome of the BAA hearing on the valuation for 2009 should be used to determine the valuation in 2010. The Assessor's Office agreed that he had correctly summarized Sprentall's position.

Assessor Mayfield explained that she would double check with the Department of Property Taxation but in her thinking at the moment, the BAA would be establishing a 2009 valuation in their decision and, based on how the Assessor's Office followed statute, when there was a revaluation in the odd numbered years, that valuation should not change for the even numbered years unless there was new construction, destroyed property or some change in classification.

Commissioner Meinert discussed the timing difficulty with the BOE having to finalize its determinations by August 5. If the result of the BAA decision was not received by August 5, he asked how the results could be taken into consideration in determining the appropriate value for 2010.

Deganhart replied that it could not. The BOE had to make its decision today based on the evidence presented for the 2010 value. If the BAA decision was for less than that amount, they could stipulate for next year's valuation. The BAA was mandated to make its decision within 30 days of the hearing, which would have been on July 22. She advised that the BOE could hold its decision in abeyance until August 5 to see if the BAA decision was made, or it could stipulate to track with the BAA decision. A discussion followed on how to proceed.

M/S/P—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert, on Schedule Number R001532, based on the fact that the BOE had not been presented with any additional information that would change the value presented by the Assessor's Office, to deny the petition at this time and retain the current valuation of \$372,320. There was no discussion. Motion passed unanimously.*

Sprentall interjected that she had missed an awful lot of what had been said and asked where everything stood.

Commissioner Padgett recounted that the County had been deliberating on the Assessor's recommendation and the County Attorney's comments and recommendation on how best to follow through with today's BOE hearing in order to maximize the Sprentalls' potential to continue to appeal the 2009 decision and to appeal this 2010 decision, recognizing that at some point a decision from the BAA would be forthcoming that may, then, allow for a stipulation. She added that a motion had been made, seconded and passed that for the purposes of the BOE hearing there was no evidence presented to justify a change to the value that was submitted of \$372,320 for 2010 and, therefore, the motion said that this particular protest was denied.

Sprentall asked if once the decision was received from the BAA, if it came in lower than the previous value of the \$348,320, they could expect that their valuation would be adjusted to that or would they have to take it to the State BAA once again.

Commissioner Padgett explained that the County would examine the BAA decision, take it into consideration, and act accordingly. She added that the County also had the right to appeal the BAA decision.

Sprentall wanted to ensure that, procedurally, they were preserving their right to have the BAA valuation take precedence.

Deganhart replied that Sprentall's statement was accurate.

Sprentall requested a statement in the motion saying that the 2010 valuation would take into consideration the BAA valuation to protect both parties.

Deganhart explained that there had been discussion about that but that the motion was just to deny the petition based on the evidence presented today. However, that would be what would occur, procedurally, once the County receives the BAA decision. Once the County reviewed the decision, the Board and Assessor's Office would take action accordingly and appropriately, and the Sprentalls would have the same opportunity.

Sprentall added that as long as it was noted in the hearing today that the BAA decision would be considered she was okay with that; as long as their rights to have that BAA decision considered were intact she would agree with the County's process.

Deganhart noted that it was her understanding that notwithstanding the recommendation from the BAA recommending that the Sprentalls allow for inspection of their property, neither she nor the Assessor's Office had heard from them to schedule that. She asked if they could set a time for the inspection.

Sprentall replied that they would not be returning until sometime in December or January.

Deganhart advised that when they did return to please, as recommended by the BAA, ensure that they made time to make arrangements with the Assessor's Office to schedule an inspection.

Sprentall replied that they would agree with that.

Commissioner Padgett closed the public hearing on Schedule Number R001532.

10:38 The Board of Equalization recessed and reconvened at 10:43:

**C. 10:43 3. Property Owner: Christopher D. Blair
Schedule Number: R004934**

Commissioner Padgett opened the public hearing on Schedule Number R004934.

Petitioner Christopher Blair was present and sworn in.

Blair had submitted an undated letter to the Board of Equalization along with his Appeal that was entered into the record (*Petitioner Exhibit C.3-1*).

Blair explained that he was not trying to decrease the valuation of his property; he was just trying to get to a position of no increase. He realized that the County's hands were tied but noted that the formula the County was working with was a prescription for disaster in the current economic times. Raising valuations in the face of depression was crazy; it was madness. People saw rising valuations as a precursor to raising property taxes and as a result it did nothing but bring out tomfoolery like Amendments 60 and 61 and Proposition 101. It was just such things as raising the valuation based on a porch that got people behind those things.

Blair related that the porch had been there presumably since the house was built, which was in 2000. For the Assessor's Office to notice it at this time seemed opportunistic. The Assessor's Office did not get to notice the porch ten years later in a late bid to raise the property valuation. As far as comparables, he could find none in 2008. He maintained that 2008 and 2007 prices were not comparable. 2007 had not seen an actual crash yet but 2008 did. There was nothing comparable between the two. There needed to be some official recognition of the difference between 2007 and 2008 tax valuation-wise, especially as it related to 2010. He bought the place this year for \$225,000 and the Assessor's Office wanted to raise it to \$276,000. He urged them to simply stop it.

Dennis Michaud entered a letter dated July 23, 2010 from the Assessor's Office into the record (*Assessor Exhibit C.3-1*). He explained that the current value was placed at \$276,410, that represented a \$1,840 increase over last year, as the result of discovering that the porch was not included in the property record until this year. When a property sold, the Assessor's Office tried to visit it as soon as possible to verify that the property characteristics were accurate. That was when they discovered the porch and were required by State Statute to add it in the year in which it was discovered. It resulted in an increase of \$1,840 that would reflect an estimated tax increase of \$7.89. The Assessor's Office's recommendation was to uphold the current value based on values from July 2006 to June 30, 2008. Michaud explained that for the 2009 and 2010 tax years, Staff had to use at least the eighteen month period between January 2007 to June 2008 but could go back five years to find comparables.

Commissioner Meinert asked if the only adjustment made from the 2009 valuation was the \$1,840 for the porch. The Assessor's Office replied that he was correct. Commissioner Meinert clarified that 2009 was the revaluation year. The Assessor's Office replied that was correct. Commissioner Meinert clarified further that the statutory requirement was to carry the 2009 valuation forward through 2010 including any additions or changes to the property. The Assessor's Office replied that was correct.

Blair pointed out that the house sold for \$264,000 in August 2006.

Michaud agreed, noting that was one sale that was used in the revaluation.

Assessor Mayfield explained further that, in Colorado, Assessors could not take a single sale to determine the value of that single home. They could not just take the value of his sale and say that because it sold for \$225,000 therefore now the value was \$225,000. State Statute did not allow them to do that. They had to look at mass sales and come up with median values.

Blair repeated that was a prescription for disaster.

Commissioner Padgett explained that when an error was discovered, under State Statute, the Assessor's Office was required to correct it; however, they were not required to make it retroactive.

Commissioner Meinert recognized that it was not a whole lot of money but the principle that Blair objected to, and Commissioner Meinert agreed with him. The problem with mass appraisal was the assumption that property would slowly escalate in value. In looking back 18 months, if there were not enough comparables in that period to make a relevant determination of value the only option was to go back further and that would possibly offset the increases. It was doubly troubling when the requirement was applied to an area where there were so few sales, and the few sales were even fewer when there was a downturn in the economy. It was a troubling system but it was the system. A discussion followed regarding the system.

Commissioner Padgett explained that the State audited the counties and there were ramifications if counties acted outside of the statutory requirements.

M/S/P—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert, based on evidence presented today and an increase due to the discovery and addition to the records of the porch that the Assessor was required to do, to uphold the Assessor's Office's valuation of \$276,410 for Schedule Number R004934. There was no discussion. Motion passed unanimously.*

Commissioner Padgett closed the public hearing on Schedule Number R004934.

11:10 The Commissioners adjourned as the Board of Equalization, recessed, and convened as the Board of County Commissioners at 11:17:

11:17 Executive Session:

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to enter into an executive session pursuant to C.R.S. §24-6-402(4)(b) for a conference with the County Attorney for the purpose of receiving legal advice and C.R.S. §24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations relative to Tavitac. There was no discussion. Motion passed unanimously.*

As County Attorney, it is my opinion that the discussion of the matter announced in the motion to go into executive session constitutes a privileged attorney-client communication.

Mary Deganhart, County Attorney

Lynn M. Padgett, Chair

Those present for the executive session included Mary Deganhart, County Attorney; Connie Hunt, County Administrator; the County Assessor and Staff; and Commissioners Albritton, Padgett and Meinert.

11:18 The Commissioners entered into an executive session:

11:47 Conclusion of executive session:

The Board came out of executive session and Commissioner Padgett made the following statement. *"Nothing else was discussed except for receiving legal advise and directing negotiations with Tavitac with Staff pursuant to C.R.S. §24-6-402(4)(b) and C.R.S. §24-6-402(4)(e)."*

11:47 The special session was adjourned:

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

ATTEST:

Lynn M. Padgett, Chair

K. Keith Meinert, Vice-Chair

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

Heidi M. Albritton, Commission Member