

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JIM D. CLIFTON,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jim D. Clifton Address: 12500 County Road 195 Salida, CO 81201 Phone Number: (719) 539-0378 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38199</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 24, 2002, Mark R. Linné, Steffen A. Brown, and J. Russell Shaw presiding. Petitioner appeared pro se via telephone conference call. Respondent was represented by Jennifer A. Davis, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 8 CEDAR GATE SUB REC 277950
(Chaffee County Schedule No. R368310200084)**

Petitioner is protesting the 2001 actual value of the subject property, a single-family residence situated on 4.48 acres and located at 12500 River View Drive, Salida, Colorado. The 1½- to 2-story structure is approximately 2,935 square foot, with a stucco over frame exterior and concrete tile roof.

ISSUES:

Petitioner:

Petitioner contends that comparable sales used by the Respondent in developing the indicated value of the subject do not represent the most appropriate sales available.

Respondent:

Respondent contends that its indicated market value is appropriate based on the comparable sales utilized in its report

FINDINGS OF FACT:

1. Mr. Jim D. Clifton, Petitioner, presented the appeal on his own behalf via telephone conference call.

2. Mr. Clifton called Mr. Kenneth Eigsti, Licensed Appraiser, as his only witness.

3. Based on the market approach, Petitioner presented an indicated value of \$370,000.00 for the subject property.

4. In Petitioner's Exhibit A, Mr. Eigsti presented three comparable sales ranging in sales price from \$275,000.00 to \$360,000.00 and in size from 2,102 to 2,871 square feet. After adjustments were made, the sales ranged from \$342,110.00 to \$415,340.00.

5. In direct testimony, Mr. Eigsti testified that he was not able to develop definitive data from the marketplace to support adjustments for views. He also testified that although approximately 50% of the buyers in this market are retired, the market did not indicate the need for an adjustment between ranch-style and multi-story structures. Mr. Eigsti testified that it is his experience that little difference exists in the market between the two primary communities in the county, Buena Vista on the north and Salida on the south. The appraiser advised that in his report, he attempted to locate and analyze comparable sales that required a minimal amount of gross and net adjustments in terms of size, age, location, and functional utility. No time adjustments were required as each of the comparables sold at the end of the base year period.

6. Petitioner's Comparable Sale #1, located at 13201 Sawmill in Nathrop, is situated approximately 8 miles north of the subject. It was described as being contemporary frame home of average quality. It sits on 4 acres of land and is nearly 4 years older than the subject. The witness adjusted this sale for lot size, age, room count, gross living area, and a 2-car garage. Total adjustments added \$67,870.00 to the sales price or approximately 22% in adjustments. Sale #1 is near Brown's Creek but does not have water frontage.

7. Comparable Sale #2 is located at 6395 Terrace Lane, 6 miles southeast of the subject and immediately northeast of Salida. It was described as being most similar to the subject in terms of design, stucco construction, and views. It is on 2 acres of land, and 2,584 square feet is smaller than the subject. Adjustments for lot size, room count, living area, and garage size added \$55,340.00 to the sale price representing a 15% adjustment. Sale #2 does not have water frontage.

8. The third comparable sale was described as being located at 10385 Cherokee in the Pinon Hills subdivision immediately south of Salida. Adjustments were made in the amount of \$67,110.00 for lot size, age, room count, living area, and garage size. The total adjustment was 24%. Sale #3 does not have water frontage.

9. During cross-examination and questioning from the Board, Petitioner's witness testified that the typical adjustment for direct access to the river could range from \$25,000.00 to \$50,000.00. He provided evidence that although the subject has a view of the Arkansas River, there is no direct access to the waterway from the property. He referred to a copy of a plat map of the subject's subdivision included in his report that noted the existence of a ditch running near the rear of the upper level of the property. It was his opinion that only by following this ditch to a common river access for the entire subdivision, could the Petitioner comfortably reach the water. The only other river access for the Petitioner would be through climbing down very steep terrain immediately past the aforementioned ditch.

10. With respect to any value adjustment applicable to perceived recreational amenities attributable to the river, Mr. Eigsti indicated that he could find no difference in value between river and creek frontage. His research indicated that only access to "live water" seems to be significant, but he believed that value for fly fishing access was not quantifiable. Rafting and kayaking may not be a positive aspect to value. He reiterated that the subject has actual river frontage, though the site is currently not accessible by water. He commented that future access could be achieved by constructing a bridge over the ditch and then cutting a series of switchbacks down to the river. As of the appraisal date, none those conditions existed.

11. Petitioner's witness testified that the subject, Lot 8, sold for \$55,000.00 in 1994 or 1995. Mr. Eigsti also pointed out a 1999 vacant land sale of Lot 21 within the subject's subdivision of \$35,000.00 to support an indicated land value of the subject. It was his opinion that the subject parcel may be worth as much as \$100,000.00. It was also brought out that the subject was constructed for approximately \$270,000.00 with the Petitioner completing some of the interior finish out.

12. Petitioner is requesting a 2001 actual value of \$370,000.00 for the subject property.

13. Respondent's witness, Ms. Mari Moore, an Appraiser with the Chaffee County Assessor's Office, presented an indicated value of \$440,000.00 for the subject property based on the market approach. She provided Exhibit 1 in support of her valuation.

14. Respondent's witness presented three comparable sales ranging in sales price from \$270,000.00 to \$416,000.00 and in size from 2,024 to 2,974 square feet. After adjustments were made, the sales ranged from \$412,228.00 to \$518,917.00.

15. Regarding Petitioner's comparable sales, Ms. Moore testified that she had not used any of them in developing her value indicator. Petitioner's #1 was described as an older home with a second building, possibly a workshop. County records indicate that it is constructed of masonry block. She described it as being fairly comparable with subject, although she noted some differences in the Mesa Antero subdivision in terms of a larger number of lots and larger lot sizes. Petitioner's witness did believe the subdivision to be of comparable quality. Ms. Moore admitted little familiarity with Petitioner's Comparable #2. She did note that county records indicated that this residence was constructed of stucco over baled straw. She testified that construction type was not sufficiently comparable to the subject. Respondent's witness also testified that Petitioner's #3 was a one-story log home with a walk-out basement, and was considerably older than the subject. Consequently, she did not believe that any of these comparables to provide evidence of value applicable to the subject.

16. Respondent's witness offered Comparable Sale #1, located at 9551 County Road 175, slightly northeast of Salida and approximately 6 miles southeast of the subject. This 1999 sale was adjusted for time, a smaller lot size, inferior views, a ranch style considered inferior to the subject, the same room count adjustment applied by Petitioner's witness, a smaller gross living area, and a smaller garage size. This property has no water view or access. Aggregate adjustments totaled \$165,069.00 or approximately 58% positive adjustment to the sales price.

17. Ms. Moore's Comparable Sale #2, a sale from early 1999, was located approximately 5 miles southeast of the subject at 8015 County Road 141. Market adjustments applied to this property included time, a positive adjustment for a larger lot size, and an inferior view, a ranch style deemed inferior as in Comparable #1, a slightly older age, one-half bath less than the subject, a smaller gross living area, and an inferior heating and cooling system. This property has no water view or access. Total adjustments required to bring this comparable up to the subject grossed \$142,228.00 or approximately 53%.

18. Respondent's Comparable #3 from late 1999 was located in Buena Vista, approximately 20 miles north of the subject. It was adjusted for the following conditions: time, a smaller lot size, inferior views, an inferior ranch style design, a slightly larger bath count, the existence of a basement, a smaller garage size, and the existence of a fireplace. This property has no water view or access. At \$102,917.00, or approximately 25%, this sale required the least amount of adjustments.

19. The Respondent's witness testified that comparables #1 and #2 are closer to the subject in terms of location and style while Comparable #3 is similar in size and quality. However, she did admit to finding a limited number of sales available from the base year from which to develop a value indicator.

20. Under cross-examination, Ms. Moore expanded on her development of adjustments. She testified that the market indicates that the views afforded by properties similar to the subject commanded a \$20,000.00 premium. She also testified that her research of the market indicated that sales of ranch-style homes sell for a lower price per square foot than multi-level residences.

21. Ms. Moore testified that land values from upper-end subdivisions such as the subject indicated a value as high as \$121,000.00. No specific evidence was provided to support this land valuation. She did reiterate that properties with views such as the subject are more valuable.

22. Under Board questioning, the Respondent's witness testified that she had no knowledge of the vacant lot sale noted by the Petitioner's witness. When questioned about the relatively large adjustments required for each of her comparable sales, she noted that without the consideration of time and views, her adjustments were no more significant than those provided by the Petitioner's witness.

23. In rebuttal, the Petitioner's witness challenged the Respondent to provide a sufficient set of comparables in excess of \$400,000.00 and similar to the subject from which a value in excess of \$400,000.00 could be developed.

24. Respondent assigned an actual value of \$440,000.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001.

2. The Board is concerned with the quantity and quality of the adjustments demonstrated in the Respondent's exhibit. A range of adjustments approaching 60% should not be required in order for comparability to the subject to be achieved.

3. The most significant difference between comparable sales for both sides appears to be in terms of value attributable to proximity to the Arkansas River. Although this Board believes that access to a highly regarded recreational waterway such as the Arkansas would logically have some measurable market appeal, no value indicators have been presented to support that perception. In point of fact, none of the sales presented by either side have a comparable proximity to the river.

4. Respondent has provided sketchy data demonstrating that some additional value may be commanded by properties with scenic views of the mountains that surround the river valley. Those views of the surrounding area would not seem to be extraordinary in comparison with the subject.

5. The Board will not consider value for the possibility that the Petitioner could build some sort of access route directly from his property to the river in the future. Though such an access may be a viable for the Petitioner, none was in place as of the assessment date.

6. The range in land values testified to by both sides fall in a narrow range from \$100,000.00 to \$121,000.00. As there is no clear testimony demonstrating the market value of lots in the subject's subdivision, the Board will take the more conservative position and set the value at \$100,000.00.

7. Although some mention was made of the construction cost of the subject residence during testimony, the Board reminds the Petitioner that by statute, only the sales comparison approach to value may be considered in developing a value indicator for a residential property. That the Petitioner did at least some of the construction himself only supports the need to value residential properties according to the sales comparison approach in order to maintain consistency throughout the process.

8. The Board also notes with interest that all of the Respondent's comparables were ranch-style homes. We suggest, given that Petitioner was able to locate 3 multi-level comparables, all of which sold in the last week of the base period, the Respondent might have found at least one through which she could have demonstrated her perception that the market views one-story homes in a negative light. Consequently, the Board finds no basis for that adjustment.

9. Based on the comments above, the Board has revised Respondent's comparables by reversing the adjustments for views and design from Comparable's #1 and #2. The Board also finds inconsistent application of adjustments for lot sizes. Specifically, we note that Comparable #2 is slightly larger in size to the subject and should have had a negative adjustment by the witness. The Board's adjusted values for Comparables #1 and #2 are \$415,154.00 and \$358,728.00, respectively. The Board concurs with Respondent that Comparable # 3 should be given the least weight.

10. With respect to the incremental value attributable to additional garage square footage, the Board is inclined to agree with Respondent that \$10,000.00 for an additional space is appropriate. Consequently, by adding \$5,000.00 to each of Petitioner's comparables, the adjusted values range from \$347,110.00 to \$420,000.00. As noted in testimony by the Petitioner's witness, he believes his Sale # 2 to be most comparable to the subject.

11. The Board concluded that the 2001 actual value of the subject property should be reduced to \$400,000.00, with \$100,000.00 allocated to land and \$300,000.00 allocated to improvements.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$400,000.00, with \$100,000.00 allocated to land and \$300,000.00 allocated to improvements.

The Chaffee County Assessor is directed to change her records accordingly.

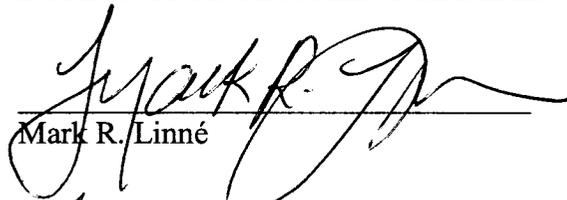
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 21st day of February, 2002.

BOARD OF ASSESSMENT APPEALS



Mark R. Linné



Steffen A. Brown

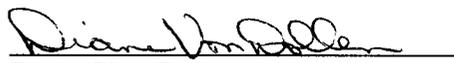


J. Russell Shaw

This decision was put on the record

FEB 20 2002

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Diane Von Dollen



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