

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JACOB KAMMERZELL,</p> <p>v.</p> <p>Respondent:</p> <p>WELD COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jacob Kammerzell Address: 25090 WCR 15 Johnstown, Colorado 80534 Phone Number: (970) 587-2859</p>	<p>Docket Number: 38202</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 21, 2002, Steffen Brown and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Cyndy Giauque, Esq., Assistant Weld County Attorney.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**25090 Weld County Road 15
(Weld County Schedule No. 05729000010, R1632486)**

Petitioner is protesting the 2001 actual value of the subject property, an 80-acre parcel of agricultural land with two houses and three support buildings, located at 25040 and 25090 Weld County Road 15, near Johnstown, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property houses have been overvalued, especially the smaller house, which doubled in value from the previous year. He does not agree with Respondent's comparable sales and also disagrees with the adjustment calculations, particularly for basement and basement finish. He believes the use of sales of properties located in a town or in a subdivision is improper. He is not contesting the outbuilding or land values.

Respondent:

Respondent contends that the subject property was correctly valued using the three approaches to value, as appropriate, for each subclass of property. There were few sales of smaller, older houses in the county; Petitioner was unable to locate rural comparables for the smaller house as well.

FINDINGS OF FACT:

1. Mr. Jacob Kammerzell, Petitioner, presented the appeal on his own behalf
2. Petitioner presented an indicated value of \$254,000.00 for the subject property.
3. Petitioner presented 6 comparable sales ranging in adjusted sales price from \$105.00 to \$154.00 per square foot and in size from 1,436 to 1,924 square feet. These sales were for comparison with the larger house on the property, 25090 Weld County Road 15; he could not find comparable sales for the smaller house, 25040 Weld County Road 15.
4. Mr. Kammerzell testified that he does not believe Respondent's comparable sales are truly comparable to his property, and he does not agree with the adjustments made by Respondent's witness. He believes that his property has been overvalued by \$50,000.00.
5. Mr. Kammerzell's residence is located at 25090 Weld County Road 15. Respondent's comparable sale #1 is located in the City of Johnstown. Comparables #2 and #3 are located in development areas. His house has a septic system, needing 1 acre for the leach field. Respondent's comparables are only about 1 acre in size. They should have been adjusted for city sewer services. He does not agree with Respondent's time adjustments. He believes that all of Respondent's comparables should be thrown out.
6. Regarding the rental house, shown on page 3 of Respondent's Exhibit #1, the property value was doubled in one year's time, from 2000 to 2001. He does not have any rural comparable sales for this property; however, Respondent's comparables are all city properties, which he does not believe are applicable to his property. He believes the value of this house should be around \$41,000.00.

7. Under cross-examination, Mr. Kammerzell testified that he is familiar with Northmore Acres (the location of Respondent's comparable sale #3 for the larger house); it is a developed subdivision and on a septic system. Comparable sale #2 (for the larger house) also has its own septic system. All of the remaining sales have all city utilities.

8. Petitioner is requesting a 2001 actual value of \$254,000.00 for the subject property.

9. Respondent's witness, Ms. Judith Hoyt, an agricultural and residential appraiser with the Weld County Assessor's Office, presented an indicated value of \$304,878.00 for the subject property, based on the market approach.

10. Respondent's witness presented 3 comparable sales for the smaller subject house, ranging in sales price from \$87,000.00 to \$94,500.00 and in size from 944 to 1,120 square feet. After adjustments were made, the sales ranged from \$70,048.00 to \$73,270.00, or \$71.48 to \$74.77 per square foot.

11. Respondent's witness presented 3 comparable sales for the larger subject house, ranging in sales price from \$200,000.00 to \$249,000.00 and in size from 1,488 to 1,768 square feet. After adjustments were made, the sales ranged from \$204,350.00 to \$229,825.00, or \$126.30 to \$154.00 per square foot.

12. Ms. Hoyt testified that she prepared the appraisal report, Respondent's Exhibit 1. She used all three approaches to value. The subject is an agricultural property with two residences and three support buildings. It is an 80-acre tract, assessed for 76-acres. It is zoned agricultural.

13. Ms. Hoyt testified that she assessed the land via the income approach as required by statute. The outbuildings were valued by the cost approach. The houses were valued by the sales comparison approach, using house sales from January 1, 1999 to June 30, 2000.

14. Regarding house #1, Ms. Hoyt testified that she used sales of comparable houses that were similar in age and square footage as the subject, and were located in Johnstown, 2.5 miles south of the subject property. The land adjustments were based on land sale prices. She believes the subject property is comparable to or better than the comparables. There are few sales of older homes available; many times they are purchased and torn-down. She was not allowed to do an interior inspection of the property. An exterior inspection indicated that the house appeared to be of average quality for the time period.

15. Regarding house #2, Ms. Hoyt testified that she used comparables from the Johnstown area to show market trends. She removed the land value from the analysis. She used frame/masonry construction sale properties, with similar size and age as the subject. The basement adjustment on comparable #3 was due to the comparable having no basement. The closest in location was comparable #1, which she gave the most weight. She also gave more weight to comparable #2 because it had a basement.

16. Under cross-examination, Ms. Hoyt testified that her adjustments were made according to market sales using paired sale analysis and were calculated by the statistician in the Weld County Assessor's office. Comparable #3 is in a different neighborhood than the subject.

17. Upon questioning from the Board, Ms. Hoyt testified that she did not make adjustments for location, city utilities, or an adjustment for multiple houses. She did not use sales of rural tracts as she did not feel they could be properly adjusted. She did not believe that the location of a house affected the value of the house; any value difference would be accounted for in the land value. She agreed it was not typical to see square footage adjustments for basement area that was higher per unit than gross living area. She does not believe they can value agricultural properties using market land values. The time adjustment factors in her grid vary due to differing neighborhoods of the comparable properties. Mr. Kammerzell is not taxed for 4 acres, which are road right-of-ways.

18. Respondent assigned an actual value of \$304,878.00 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 believes that the Respondent's methodology for sales comparisons for the subject property is in error. This Board has consistently ruled that removing the land value from the market analysis is improper. The property should be valued on a market basis using market sales of similar properties and adjusting for time and physical characteristic differences, as is done for other classes of real property. Then a market land value should be extracted from the value conclusion and the statutory agricultural value added, resulting in a total taxable value of the property. However, we received insufficient evidence from either party to properly calculate the subject property value using this preferred methodology.

3. Petitioner presented a list of three sales for consideration for the value of the larger subject property house, but no adjustments were made to the sales for physical characteristic differences. Basic appraisal practice requires that such adjustments must be made; there was no information presented regarding the sale property characteristics. Therefore, the Board could give little weight to these sales.

4. Regarding the smaller house, Petitioner did not present any sale data; however, he disputed Respondent's sales based on their location within town limits and the lack of adjustment for location, city services, and land size.

5. The Board believes that it is likely that a potential purchaser would apply some type of discount to the full market value of the second house located on the property. Respondent used comparable sales of single-family properties, but the subject has two houses on one land tract. We do not believe an accurate market value results from the simple addition of two separate house value analysis. Additionally, we were convinced that some type of adjustment should be made to those comparables that are located in the city with full city utility

services, versus the subject property’s rural location with an individual septic system. The Board applied a 10% adjustment to the comparable sales due to their city services and city location, and an additional 20% due to the house being a second dwelling on one single land parcel. The resulting adjusted sales price range was \$45.26 to \$51.94 per square foot. The Board concluded that the value of the smaller house should be reduced to \$50.00 per square foot, or \$49,000.00.

6. Regarding the larger house, we were not convinced that the basement adjustment for comparable #3 was correct. It is not typical for square footage adjustments to be larger per unit for basement finish than for first floor gross living area. The Board lacked evidence to determine what a more reasonable adjustment would be for this attribute and therefore gave no weight to comparable #3. The Board determined that comparable #1 should be reduced by 10% to account for city services. The Board also noted a mathematical error in comparable #2, which indicated the correct adjusted sales price should be \$115.58 per square foot. The resulting value range was \$115.58 to \$119.55 per square foot. The Board concluded that the value of the larger house should be reduced to \$120.00 per square foot, or \$194,160.00.

7. Petitioner did not dispute the value of the subject property’s outbuildings and land.

8. After careful consideration of all the testimony and evidence, the Board concluded that the 2001 actual value of the subject property should be reduced to the following:

15090 Weld County Road 15 (larger house)	\$194,160.00
15040 Weld County Road 15 (smaller house)	\$ 49,000.00
Outbuildings	\$ 1,867.00
Land	<u>\$ 22,342.00</u>
Total Value	\$267,369.00

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$267,369.00, with \$22,342.00 allocated to land and \$245,027.00 allocated to improvements.

The Weld County Assessor is directed to change his records accordingly.

APPEAL:

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

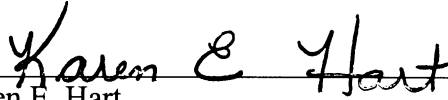
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 27th day of October, 2002.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown




Karen E. Hart

This decision was put on the record

OCT 23 2002

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



Penny S. Bunnell