


<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD K. SWINNEY,</p> <p>v.</p> <p>Respondent:</p> <p>CLEAR CREEK COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard K. Swinney Address: 305 Kings Road Evergreen, Colorado 80439-4315 Phone Number: (303) 670-9283 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38246</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 14, 2001, Judge Nuechter and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Robert W. Loeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**CIRCLE K RANCH HOMESITES TRACT D, TRACT #1
(Clear Creek County Schedule No. R014250))**

Petitioner is protesting the 2001 actual value of the subject property, a fair condition, one-story frame dwelling built in 1972, consisting of 2,342 square feet with a partially finished basement, located in Circle K Ranch Homesites in Clear Creek County, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property was in poor condition when purchased. He has made some improvements to the property, but is not yet finished with repairs. He does not believe the house is marketable in its current condition. The Respondent's recommended value is more than he could receive on the market, considering the current condition of the property.

Respondent:

Respondent contends that the subject property is correctly valued using sales of similar properties similarly situated, which occurred during the proper base period. The recommended value considers the fair condition of the subject property during the base period.

FINDINGS OF FACT:

1. Petitioner, Mr. Richard K. Swinney, presented the appeal on his own behalf.
2. Petitioner presented no comparable sales.
3. Mr. Swinney testified that he purchased the subject property in October of 1999 for \$183,800.00. It was in poor condition at the time of purchase. He has since completed some repairs and the house is habitable, but there is still substantial work to be done.
4. Mr. Swinney testified that the work he completed prior to the assessment date included the installation of a water treatment system in the spring of 2000, and the installation of a three-rail, split-rail fence encompassing approximately 2 acres of the subject property lot. They also removed and replaced the carpeting and some flooring, replaced the kitchen cabinets, removed some interior walls, replaced the main-floor hot water registers, and replaced both interior and exterior doors. They also expanded the deck, which wraps around the side of the house.
5. Activities by Petitioner after the assessment date have included the replacement of the roof covering, which included old shingle removal, patching of the asphalt driveway, and the litigation of a property line. Petitioner continues to do clean-up work on the subject property lot, including the removal of tree debris.
6. Mr. Swinney testified that some of the work still needing to be completed is repaving of the asphalt driveway, residing of the house, replacing of the hot water heating system including the boiler and hot water heater, replacing the windows, the building of a retaining wall, and the replacement of 340 linear feet of the new fencing that was removed due to the property line dispute. He is also concerned that the septic system may fail.

7. Under cross-examination, Mr. Swinney testified that they moved into the house in December of 1999, before the interior remodeling was completed. The basement has an entrance through the garage. They did not have sufficient well water when they moved in, only enough for toilet operation. They lived in one room in the basement until June or July of 2000, at which time they had the main floor sufficiently repaired so as to be able to move into it.

8. Upon questioning from the Board, Mr. Swinney testified that he did not know at the time of purchase that there was a property line dispute at the subject property. They knew there was a water potability problem, but they did not know they would not have sufficient water pressure for use of the water, which was due to a leak in the water line from the well. They did not know the roof leaked, and they still do not know where the septic tank is located. The hot water boiler has five circuits, one of which is on full time, but three need turned on by hand; the circuits were supposed to be in working order at the time of purchase, but he later found that the controller did not work and believes that the previous owner also operated the circuits by hand.

9. He believes the property would be worth \$240,000.00 to \$250,000.00 once the remaining repairs are completed, especially the driveway repairs.

10. Petitioner is requesting a 2001 actual value of \$200,000.00 for the subject property.

11. Respondent's witness, Ms. Diane Settle, Clear Creek County Assessor, presented an indicated value of \$236,530.00 for the subject property based on the market approach.

12. Respondent's witness presented six comparable sales ranging in sales price from \$197,000.00 to \$325,000.00 and in size from 1,898 to 2,640 square feet. After adjustments were made, the sales ranged from \$223,550.00 to \$263,100.00.

13. Ms. Settle testified that she inspected the property in May of 2000. She has also inspected her comparable sale properties.

14. Ms. Settle testified that the subject property is 2,342 square feet in size, was built in 1972, and is in fair condition. For comparables, she looked for homes of similar age and square footage. She feels that Comparable Sale 3 is most comparable as it is in fair condition, is of similar square footage, and was built in the same year as the subject. All of the other comparables are in average condition. She adjusted the comparable sales for time, condition, living area square footage, and land amenities.

15. Ms. Settle testified that she had not been aware of the remodeling until the CBOE hearing in July of 2001. The value reflects the fair condition of the property as of the inspection date in May of 2000.

16. Upon questioning from the Board, Ms. Settle testified that her quality adjustment was determined using multiple regression models. The land adjustments are due to land characteristic differences. All of the comparable lots, as well as the subject property, are valued at the same base land rate, with adjustments made for amenity differences such as size, view, topography, et cetera. The time adjustment is 1% per month. The comparable sales and the subject property are all located within the same marketing area.

17. Respondent assigned an actual value of \$237,660.00 to the subject property for tax year 2001, but is requesting a reduction to \$236,530.00.

18. In rebuttal testimony, Mr. Swinney indicated that the garage area was not properly depicted on Respondent's sketch on page 18 of Exhibit 1. The garage extends completely to the rear of the basement. There is a poor quality unfinished room located in the garage area.

19. Upon questioning from the Board, Ms. Settle testified that she would correct her records regarding the garage and basement area. However, garages are valued according to the number of parking spaces, not by square footage, and she does not value unfinished basement area, only basement finish square footage. Therefore, the corrections will not result in a valuation change.

CONCLUSIONS:

1. Sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001. Respondent recommended a slight reduction in value based on the presented appraisal concluded value.

2. Respondent's witness presented a well-organized and well-supported appraisal report. Ms. Settle adjusted her comparables that were in average condition by \$67,500.00. The Board is convinced that this amount of adjustment adequately accounts for the remaining repairs needed to bring the subject property to an average condition. Furthermore, the Board notes that Comparable Sale #3 was in similar condition as the subject at the time of sale and required very little adjustment for physical characteristic differences. This sale was relied on heavily by Respondent's witness and well supports the assigned value, as well as the condition adjustment made by Ms. Settle to the other comparables.

3. Petitioner presented no market information to support any further reduction in value.

4. After careful consideration of all the testimony and evidence presented, the Board concluded that the 2001 actual value of the subject property should be reduced to the recommended value of \$236,530.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$236,530.00.

The Clear Creek County Assessor is directed to change her records accordingly.

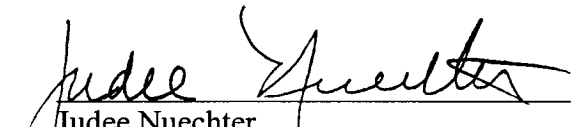
APPEAL:

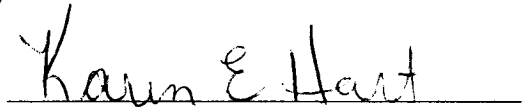
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 31st day of December, 2001.

BOARD OF ASSESSMENT APPEALS

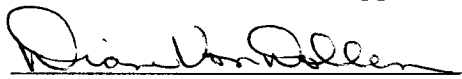

 Judee Nuechter


 Karen E. Hart

This decision was put on the record

DEC 31 2001

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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