

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THOMAS M. JANICH,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Thomas M. Janich Address: 322 South 31st Avenue Brighton, CO 80601 Phone Number: (303) 659-8613 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38311</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 19, 2001, Debra A. Baumbach and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Jennifer Wascak Leslie, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 75 FLG 2 COTTONWOOD VISTA SUB
(Adams County Schedule No. R0006746)**

Petitioner is protesting the 2001 actual value of the subject property, a single family dwelling of split-level design consisting of 1,810 square feet, constructed in 1994, with a partial basement, and located in the City of Brighton, Colorado.

ISSUES:

Petitioner:

Petitioner contends that Respondent's comparable sale's adjustments are too high and are not supported. He believes his adjustments are more reasonable. He is a real estate broker and an appraiser.

Respondent:

Respondent contends that the assigned value is supported by properly adjusted sales of similar properties similarly situated during the appropriate base period.

FINDINGS OF FACT:

1. Mr. Thomas M. Janich, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$165,000.00 for the subject property.
3. Petitioner presented 3 comparable sales ranging in sales price from \$155,000.00 to \$159,000.00, and in size from 1,780 to 1,880 square feet. After adjustments were made, the sales ranged from \$163,160.00 to \$166,330.00.
4. Mr. Janich testified that he feels the time adjustment used by Respondent is excessive at 1% per month. He also believes a condition adjustment should be made, as his house needs new carpet and linoleum, new interior painting, and some exterior painting. He believes that adjustments should also be made to the comparables for cooling differences, such as the presence of air conditioning or swamp coolers. He believes that Respondent's adjustments for basement, basement finish, and living area are too large. He paid \$5,000.00 for the basement option when his house was built.
5. Mr. Janich testified that two of his comparable sales are the same as Respondents. He adjusted his sales for time, although he does not agree such an adjustment factor should be applied. He adjusted his comparables for basement differences at a rate of \$5.00 per square foot, and also made adjustments for bathroom differences and condition.
6. Upon questioning from the Board, Mr. Janich testified that his house does not have air conditioning and has an unfinished basement. He has a gas log fireplace without a brick wall finish. His house has one full and two 3/4 bathrooms. He explained the differences in bathrooms and fireplaces according to the year built of the comparables. He could not say that he had been inside the Respondent's comparables, but his mother was the broker for the housing development so he is familiar with their floor plans. He purchased the house new in 1994; the interior finish is still original.

7. Petitioner is requesting a 2001 actual value of \$165,000.00 for the subject property.

8. Respondent's witness, Mr. Dominic P. Mailo, a Registered Appraiser with the Adams County Assessor's Office, presented an indicated value of \$176,256.00 for the subject property based on the market approach.

9. Respondent's witness presented 3 comparable sales ranging in sales price from \$155,000.00 to \$170,000.00 and in size from 1,194 to 1,810 square feet. After adjustments were made, the sales ranged from \$180,451.00 to \$201,793.00.

10. Mr. Mailo testified that all three of his comparable sales were located within 5 blocks of the subject property, in the same subdivision as the subject. He adjusted the sales for time, unfinished and finished basement area differences, living area square footage, and age. His time adjustment was 1% per month, based on paired-sales analysis. His price per square foot adjustment for differences in living area was based on approximately 1/3 of the sales price per square foot, which equated to \$35.00 per square foot. He used an adjustment of \$10.00 per square foot for unfinished basement area, and another \$10.00 per square foot for finished basement area differences.

11. Mr. Mailo critiqued Petitioner's Exhibit B and pointed out it is an MLS listing report. He thinks Petitioner's adjustments are lacking, particularly his age adjustment. He testified that Petitioner's Comparable Sale 3 is located outside of the subject property subdivision.

12. Mr. Mailo testified that his value opinion is based on exterior inspections. He pointed out that carpeting is not an assessable component in residential property for tax purposes. He believes painting and floor coverings are usually repaired at the time of sale, especially if sold for an FHA loan. He believes the age adjustment would account for minor condition issues.

13. Under cross-examination, Mr. Mailo clarified that SPSS is a program used for statistical analysis of paired sales. He did not know how many paired sales were used for the analysis to determine the subject property time adjustment factor.

14. Upon questioning from the Board, Mr. Mailo clarified that his comparable sales were all adjusted at the rate of 1% per month for time. He used .5% of the sales price for each year difference for his age adjustment. He did not adjust for fireplace or bathroom differences, as he was not sure what types of fireplaces each comparable may have had, nor what types of bathrooms as he has not done interior inspections of the properties. He does not believe they had complete remodels, as that would have required a building permit and none were issued.

15. Respondent assigned an actual value of \$176,260.00 to the subject property for tax year 2001.

16. In rebuttal testimony, Petitioner clarified that his Comparable Sale 3 was located only about 5 to 8 blocks from the subject property, still within the subject property neighborhood area.

CONCLUSIONS:

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

2. The Board agrees with Petitioner that an adjustment should be made to the comparable sales for condition of the subject property, as well as for differences in cooling, fireplaces, and number of bathrooms. The Board made adjustments to all four presented sales for these factors, and also reduced Respondent's living area adjustment to \$20.00 per square foot. The resulting adjusted sales prices ranged from \$176,951.00 to \$182,793.00, a much tighter range than was presented by Respondent.

3. Petitioner protested the use of time adjustments as applied to the comparable sales. It is common appraisal practice to time adjust sales to a particular date. For ad valorem tax purposes in Colorado, that date is set in the Colorado Revised Statutes. Respondent correctly time adjusted the sales to the June 30, 2000, level of value for tax year 2001. Respondent's witness testified that his time adjustment factors were determined by analyzing paired sales. Petitioner did not present any evidence to support any change in the time adjustment factor used by Respondent.

4. After careful consideration of all the evidence and testimony presented, the Board affirms the subject property assigned value of \$176,260.00, noting that the assigned value is less than the indicated range.

ORDER:

The petition is denied.

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 28 day of November, 2001.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

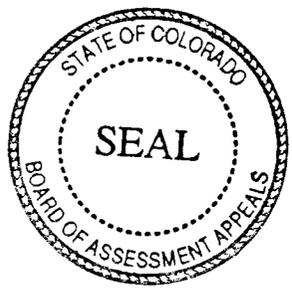
Karen E. Hart
Karen E. Hart

This decision was put on the record

NOV 27 2001

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

Diane Von Dollen
Diane Von Dollen



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