

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HAROLD I. DAILY, M.D.</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Harold I. Daily Address: 7737 Southwest Freeway, Suite 700 Houston, Texas 77074 Phone Number: (713) 774-6188 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38535</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 12, 2002, Judge Nuechter and Karen E. Hart presiding. Petitioner appeared pro se via telephone conference. Respondent was represented by John M. Ely, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**WOODRUN UNIT 1 LOT 77
(Pitkin County Schedule No. R001776)**

Petitioner is protesting the 2001 actual value of the subject property, a 2,342 square foot dwelling of frame construction, built in 1976 with a one-car garage, located at 166 Edgewood Lane in Snowmass Village, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property is inferior to the comparable sales and is, therefore, overvalued. There is an underground stream that has caused past damage to the property and should be a consideration in the value opinion.

Respondent:

Respondent contends that the subject property was correctly valued using sales of similar properties similarly situated that occurred during the appropriate base period. The comparable sale properties were located in the same neighborhood as the subject property.

FINDINGS OF FACT:

1. Dr. Harold I. Daily, Petitioner, presented the appeal on his own behalf via telephone conference.
2. Based on the market approach, Petitioner presented an indicated value of \$899,037.00 for the subject property.
3. Petitioner presented the same comparable sales as Respondent.
4. Dr. Daily testified that he purchased the subject property in 1974; the home was later built and finished in 1976. The home is a multi-level frame residence consisting of 2,250 square feet, with a one-car garage. There have been no subsequent changes made to the house.
5. Dr. Daily testified that the subject property lot has a very steep contour. There is an underground stream that has caused past damage to the home. It is now controlled by underground drainage, but it would need to be revealed to a potential buyer.
6. Dr. Daily testified that Respondent's Comparable Sale 2 was torn down after the sale. Comparable sales 1 and 3 are much newer than the subject and should have significantly higher values, disregarding the lot sizes. The subject property is valued at \$435.87 per square foot; whereas, Comparables 1 and 3 are valued at \$417.20 and \$385.95, respectively. He averaged Comparables 1 and 3 and arrived at a value of \$956,941.00 for the subject property. He also calculated the value for the subject property based on lot size and "allowed floor area." His concluded value using this method was \$841,133.00. He averaged these two values to arrive at his estimate of value of \$899,037.00.

7. Under cross-examination, Dr. Daily testified that the underground stream that caused damage in the past has been controlled by underground drainage. The uphill side wall of the foundation was dug by hand, and a drain was installed. He has not had trouble since, but the problem came on quickly before and could happen again. He admitted that ski-in/ski-out ability could be a factor in value; however, he does not have a ski-in/ski-out lot.

8. Upon questioning by the Board, Dr. Daily testified that he did not know if the underground stream affected the comparable sales. He was not aware of the underground stream when he purchased the property.

9. Petitioner is requesting a 2001 actual value of \$899,037.00 for the subject property.

10. Respondent's witness, Mr. Larry Fite, a Certified General Appraiser and Chief Appraiser with the Pitkin County Assessor's Office, presented an indicated value of \$1,275,000.00 for the subject property based on the market approach.

11. Respondent's witness presented three comparable sales ranging in sales price from \$1,115,000.00 to \$1,520,000.00 and in size from 2,889 to 3,104 square feet. After adjustments were made, the sales ranged from \$1,257,850.00 to \$1,461,000.00.

12. Mr. Fite testified that the subject property is located in the center of the Woodrun subdivision. It is not a true ski-in/ski-out property, but it is located close to the ski run, separated only by Edgewood Lane. The Snowmass ski runs are located on both sides and in the middle of the subdivision.

13. Mr. Fite testified that the subject property is an older home and one of the original properties in the subdivision. The overall age is 25 years, it was built in 1976, and their records indicated a square footage of 2,342. It was a nice home in its time, but it is now considered dated due to the construction style, design and overall interior finish. The house is structurally sound.

14. Mr. Fite testified that the property can be further improved to a floor area ratio that is equal to 3,900 square feet.

15. Mr. Fite testified that Comparable Sales 1 and 2 represent the structures that were located on the properties at the time of sale; both were demolished after the sale. Comparable Sale 1 is located closest to the property. Comparable Sale 2 was adjusted for location due to its distance from the ski area, as was Comparable Sale 3. The comparable sales were adjusted for time, site differences, design appeal, condition, size, heat, garages, et cetera.

16. Mr. Fite testified that he believes the subject property would be bought for a building site, similar to Comparable Sales 1 and 2. He acknowledged that there would be demolition costs. He arrived at a conservative value of \$1,275,000.00.

17. Mr. Fite testified that he did not make an adjustment for the underground stream as the problem has been remedied. A new house would have the drainage diversion installed as new construction. He made no adjustment for age, as all of the improvements were similar to the subject in original date of construction at the time of sale.

18. Respondent assigned an actual value of \$1,038,700.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001. Respondent's witness presented a well-organized and well-supported appraisal report.

2. Petitioner disclosed that there was past water damage caused to the subject property by an underground stream. However Petitioner testified that the damage was repaired, a diversion drain was installed, and no further problem has surfaced. The Board finds no evidence to support any adjustment to the subject property for this past problem.

3. Petitioner also argued that his property was valued through the use of comparables that had new homes with significantly higher values than his property. The Board was convinced by Respondent's witness that the comparable sales were similar to the subject property and were based on the homes that existed at the time of sale, not the newer homes that were built onto the properties after the sale.

4. Respondent's comparable sales after adjustments for time and characteristic differences resulted in a value range of \$1,257,850.00 to \$1,561,000.00 and Respondent's witness concluded to a value of \$1,275,000.00. The Board notes that the assigned value is much less than the indicated value.

5. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$1,038,700.00.

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 26th day of March, 2002.

BOARD OF ASSESSMENT APPEALS



Judee Nuechter



Karen E. Hart

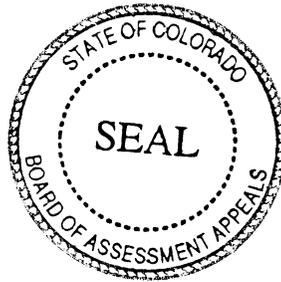
This decision was put on the record

 MAR 25 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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