

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>RICHARD F. AND SUSAN M. MUTZEBAUGH,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Richard F. &amp; Susan M. Mutzebaugh Address: 9965 South Wycliff Drive Highlands Ranch, Colorado 80126 Phone Number: (303) 791-4063 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 39000</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 8, 2001, Debra A. Baumbach and Mark R. Linné presiding. Petitioner, Richard F. Mutzebaugh, appeared pro se. Respondent was represented by Lance J. Ingalls, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**LOT 38 HIGHLANDS RANCH #87C  
(Douglas County Schedule No. 0354828)**

Petitioners are protesting the 2001 actual value of the subject property. The subject is a two-story home constructed of frame/masonry, that is located in Highlands Ranch. The subject was built in 1991 and consists of approximately 2,805 square feet of living area. The property is configured with three bedrooms, three bathrooms, a three-car garage and a 1,556 square foot unfinished walkout basement. The subject is situated adjacent to an open space area with views of the Front Range.

## **ISSUES:**

### **Petitioners:**

Petitioners contend that the subject property has been overvalued. The land value assigned to their property is too high. The property has a land value premium of \$35,000.00, which is inappropriate. The property is adjacent to an open area that is itself adjacent to a school; therefore, it is not true open space. The sales utilized by the Respondent to value their home are from the earlier portion of the 18-month study period, and the adjustments for changes in market conditions are, therefore, quite large.

### **Respondent:**

Respondent contends that the subject property has been correctly valued. The comparable sales used are the most similar to the subject in size, style, quality, and market appeal. All of the sales are considered to be from the same market area. The Respondent has presented an appraisal that makes adjustments to comparable sales in the area, resulting in a well-supported value for the subject. The Respondent believes that the sales used by the Respondent are inappropriate in that they are from a different neighborhood that exhibits different quality and locational characteristics.

## **FINDINGS OF FACT:**

1. Mr. Richard F. Mutzebaugh, Petitioner, presented the appeal on behalf of the Petitioners.
2. Based on the market approach, Petitioners presented an indicated value of \$340,000.00 for the subject property.
3. Petitioners presented three comparable sales ranging in time adjusted sales price from \$662,096.00 to \$677,172.00, and in size from 4,048 to 4,292 square feet. The sales price per square foot provided an indicated range of \$157.78 to \$166.98. The average time adjusted sales price per square foot was indicated as \$113.86.
4. Petitioners' witness, Virginia Rember-Helm, Colorado Certified General Appraiser, testified with respect to an appraisal that she prepared on the subject property. She examined 45 sales from the six-month period prior to the end of the study period.
5. The witness testified that she selected six properties within ten blocks of the subject property, all of which were comparable with respect to size, quality, and location.
6. The witness testified that her conversations with the owner of the property indicated that Mr. Mutzebaugh did not pay a premium for the subject lot when he purchased the property.

7. Ms. Rember-Helm testified that she utilized sales from a somewhat broader area but that sales from the area were comparable.

8. The witness testified that given that all sales were within 6 months of the assessment date, she did not feel that time adjustments were necessary.

9. With respect to the subject's location proximate to a greenbelt, the witness testified that she felt that a premium for the greenbelt area was not appropriate. The greenbelt area is also adjacent to a school, and this provides excessive noise.

10. The witness testified that she made appropriate adjustments to all of the comparable sales, and did not adjust for size differences of less than 100 square feet.

11. Respondent's witness presented six comparable sales, which after adjustment ranged from \$327,100.00 to \$358,450.00 and in size from 2,718 to 2,885 square feet.

12. Based on the direct sales comparison analysis, the witness testified that \$340,000.00 was her estimate of value. She did look at the cost approach, but gave it very little weight.

13. The witness testified that she looked at the county's appraisal, and noted that the comparables utilized by the Assessor represented properties with upgrades or in very good condition.

14. In response to cross-examination questions, Ms. Rember-Helm testified that she disagreed with the Respondent's characterization of the subject neighborhood as consisting of homes of very good quality. She further explained that her sales comparables are from the same neighborhood. She did not agree with the Assessor's sales; they were from an earlier part of the applicable data collection period or had different quality characteristics.

15. Petitioners are requesting a 2001 actual value of \$340,000.00 for the subject property.

16. Respondent's witness, Mr. Larry Shouse, Colorado Certified General Appraiser, Senior Appeals Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$416,814.00 for the subject property based on the market approach.

17. Respondent's witness presented three comparable sales ranging in time adjusted sales price from \$403,905.00 to \$442,907.00 and in size from 2,852 to 3,160 square feet.

18. The witness testified that he followed the appropriate guidelines, including Colorado Revised Statutes and the Assessors Reference Library guidelines prepared by the Division of Property Taxation.

19. The witness testified that he considered only the direct sales comparison approach; the only permitted approach to value permitted under statute.

20. The witness characterized Neighborhood 271 (the subject's neighborhood) as consisting of homes built in the 1980s and early 1990s. The neighborhood is generally of very good quality. The witness explained that Neighborhood 209, in which the Petitioners' sales were located, is north of the subject neighborhood across Highlands Ranch Parkway. The witness questioned why sales were used in a different neighborhood when there were sales available within the subject neighborhood.

21. Mr. Shouse described the subject as a very good quality dwelling constructed of frame and brick veneer. The subject has a panoramic view of the mountains to the west. Additionally, the property is adjacent to an expansive open space tract. The witness explained that he did not feel that the open space was a liability, but rather considered it a limited asset.

22. The witness testified that given an appreciating market during the applicable data collection period, all of the sales were trended to June 30, 2000. The witness testified that he disagreed with the Petitioners' appraisal and the testimony of its expert in rejecting older sales on the basis of date of sale alone.

23. The witness presented six sales, the majority of which were within the subject neighborhood, and thus useful in deriving a value.

24. After considering all of the comparables, the witness testified that he established a broader range for the subject of \$403,000.00 to \$442,000.00. Giving the greatest weight to Comparable Sale #1, he concluded a value for the subject of \$420,000.00. The actual value assigned to the subject was \$416,814.00 and, therefore, he felt that the appraisal supported the assigned valuation.

25. The witness testified that though there is a school across the greenbelt from the subject, the greenbelt buffers the school in an effective manner from the subject.

26. Under cross-examination, the witness confirmed that he felt that Neighborhood 209 is a "good" neighborhood rather than a "very good neighborhood."

27. The witness testified that the Douglass County Assessor applies an adjustment factor of \$35,000.00 to properties with greenbelt proximity. The witness testified that he was unsure of the number of sales that were utilized to develop the open space adjustment factors for the area.

28. Respondent assigned an actual value of \$416,814.00 to the subject property for tax year 2001.

## **CONCLUSIONS:**

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

2. The Board has carefully considered all admitted evidence and testimony and concludes that all of the sales provided by the Respondent and the Petitioner have appropriate relevance in the valuation of the subject. While the Board recognizes the appropriateness of utilizing sales that are within the subject's neighborhood, the Board concludes, after considering the testimony of both Respondent and Petitioners, that the aggregation of the entirety of the sales presented to it should form the basis of the valuation conclusion. The final valuation conclusion should consider the Petitioners' sales as well as the sales utilized by the Respondent.

3. After the consideration of all the sales data presented by both Petitioners and Respondent, the Board concludes that all of the sales presented by both parties provide the best representation of value for the subject. A final value conclusion of \$390,000.00 is determined to best represent the value of the subject.

**ORDER:**

The Respondent is ordered to reduce the 2001 actual value of the subject property to \$390,000.00.

The Douglas 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 21<sup>st</sup> day of December, 2001.

**BOARD OF ASSESSMENT APPEALS**

This decision was put on the record

DEC 20 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

Debra A. Baumbach  
Debra A. Baumbach

Mark R. Linné  
Mark R. Linné

