

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL T. WESTALL,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Michael T. Westall Address: 7919 South Cook Way Littleton, Colorado 80122 Phone Number: (303) 221-1111 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39095</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 8, 2001, Mark R. Linné and J. Russell Shaw presiding. Petitioner appeared pro se. Respondent was represented by Lance J. Ingalls, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 226 HIGH.ANDS RANCH #122H
(Douglas County Schedule No. R0412453)**

Petitioner is protesting the 2001 actual value of the subject property, a single family residence located at 10272 Fawnbrook Court in the Highlands Ranch community in Douglas County.

ISSUES:

Petitioner:

Petitioner contends that the subject has been incorrectly valued in comparison to comparable sales situated in the same subdivision filing.

Respondent:

Respondent contends that the assigned value is supported by the Assessor's comparable sales.

FINDINGS OF FACT:

1. Mr. Michael T. Westall, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$208,605.00 for the subject property.
3. Petitioner presented two comparable sales ranging in sales price from \$196,400.00 to \$199,400.00. Both comparable sales had 2,368 square feet. After adjustments were made, the sales ranged from \$205,511.00 to \$208,699.00.
4. Petitioner's direct testimony focused on the identical aspects of the subject in relation to the comparable sales used in his analysis. He used Exhibit A to demonstrate that the subject and comparables were all Hollybrook models built by Oakwood Homes. He also used the exhibit to demonstrate errors in the Assessor's record regarding the number of baths in the subject structure. He testified that the subject has 2.5 baths instead of the 3 full baths noted in the Respondent's data.
5. A significant distinction presented by the Petitioner to differentiate the subject from other properties he considered to be identical was with respect to his personal motivations for purchasing the property. It was Mr. Westall's position that he purchased the residence as an income-producing vehicle as opposed to a purchaser whose primary motive would be shelter. He testified that he intentionally purchased a version of this particular model that did not include upgrades of any structural or cosmetic components. Consequently, he testified that the subject property was purchased at the lower end of the sales range.
6. Exhibit A also contained an adjustment matrix provided to the Petitioner by the Assessor's office. This model noted quantitative and qualitative adjustments available to the Assessor in comparing properties. This model indicated adjustments of \$1,500.00 for fireplaces, as well as a \$1,500.00 differential per bath.
7. Mr. Westall confirmed in both his direct testimony and under cross-examination that the subject was located on a cul-de-sac. He also noted the existence of signs in an adjoining parcel indicating the potential for future residential development on that property.

8. The Board asked the Petitioner to use the plat map included in Exhibit A to demonstrate the location of the future development sign. He indicated a location that seemed to lie within a parcel identified as Section 18 in the lower right corner of the map. He also indicated that the easements shown in the plat did not contain high voltage power lines.

9. Petitioner is requesting a 2001 actual value of \$208,605.00 for the subject property.

10. 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 \$231,579.00 for the subject property based on the market approach.

11. Respondent's witness presented three comparable sales ranging in sales price from \$234,400.00 to \$248,300.00, and in size from 2,288 to 2,368 square feet. After adjustments were made, the sales ranged from \$229,150.00 to \$249,840.00.

12. Mr. Shouse's testimony regarding the comparables utilized in Respondent's Exhibit 1 indicates that all three structures are of average quality, age, and condition. The subject was described in similar terms. Respondent's appraisal shows the subject to have a fireplace and three full baths.

13. Mr. Shouse also indicated that the land value assigned to the subject did not seem to indicate a recognition that the property backs up to open space, or that it was larger than the average lot within the filing.

14. In testimony offered during cross-examination, Respondent's witness advised that the market data did not indicate a value differential for cul-de-sac locations. His testimony did indicate that because the subject abuts a designated open space, an adjustment of approximately +5% should have been applied to the land value.

15. Further questioning by the Petitioner demonstrated that Respondent's witness was unable to identify whether or not the comparables utilized in Exhibit 1 contained various interior or exterior upgrade features including masonry fascias and studies. Mr. Shouse conceded that it was possible that Petitioner's comparables might be more comparable to the subject in some respects than the Respondent's comparables.

16. Respondent assigned an actual value of \$231,579.00 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.

2. Although Exhibit 1 seemed to indicate the existence of minor discrepancies in terms of structural elements between the subject and comparables, any quantitative adjustments based on resolving those discrepancies would result in little if no change to the Respondent's valuation. Additionally, the Board finds that any adjustments in the Petitioner's favor would have been further offset by the open space adjustment that was omitted from the Assessor's value indicator.

3. The Board could give little weight to the comparable sales presented by the Petitioner. In reviewing the evidence presented by the Petitioner, the Board notes that two base-year sales occurred on Comparable #2. The earlier sale of \$254,300.00 falls within a reasonable proximity to the range of sales utilized by the Respondent. The appearance that the second base-year sale for this comparable property occurred at such a significant discount impeaches the credibility of this comparable sale.

4. The Board has carefully considered all admitted evidence and testimony and has affirmed the Respondent's value. The Respondent presented three comparable sales supporting the assigned value conclusion. The adjustments made to the sales are reasonable and take into consideration any differences in physical characteristics.

5. The Respondent's assigned value does take into consideration all of the factors affecting the overall valuation. The assigned value is supported and is affirmed based on the evidence and testimony presented to the Board of consideration.

ORDER:

The petition is denied.

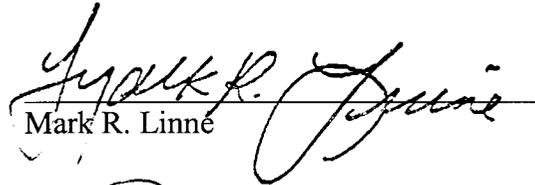
APPEAL:

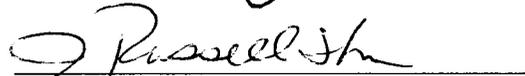
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 3rd day of January, 2002.

BOARD OF ASSESSMENT APPEALS


Mark R. Linne


J. Russell Shaw

This decision was put on the record

JAN 02 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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