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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT S. PROKOP,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Robert G. Prokop Address: 6355 Carr Street Arvada, Colorado 80004 Phone Number: (303) 421-4033 E-mail: Attorney Reg. No.:</p> | <p>Docket Number: 39605</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on February 26, 2002, Claudia D. Klein and Steffen A. Brown presiding. Petitioner was represented by Robert G. Prokop, Petitioner’s father and Agent. Respondent was represented by Jennifer Pielstickler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 2 SEC 3 TWN 3 RNG 69 PROKOP MINOR SUB 2ND AMD
(Jefferson County Schedule No. 429015)**

Petitioner is protesting the 2001 actual value of the subject property, a ranch-style manufactured home of frame construction, with 1,842 square feet of main living area, 3 bedrooms, 2 baths, a deck, and a 2-car detached garage.

ISSUES:

Petitioner:

Petitioner contends that the subject, a ranch-style manufactured home, Type-2 substandard construction and no basement, is in an area where most homes are 50 to 60 year old, is located off Carr and 64th Avenue, and has been overvalued by the county assessor.

Respondent:

Respondent contends that the subject property has been correctly valued using sales of similar properties similarly situated that occurred during the appropriate time period.

FINDINGS OF FACT:

1. Mr. Robert S. Prokop, Petitioner's father and Agent, presented the appeal on behalf of Petitioner.

2. Based on the market approach, Mr. Prokop presented an indicated value of \$135,450.00 for the subject property.

3. Mr. Prokop presented eight comparable sales ranging in sales price from \$136,000.00 to \$145,000.00 and in size from 980 square feet to 1,710 square feet. After adjustments were made, the sales ranged from \$116,000.00 to \$163,622.00.

4. Mr. Prokop testified that the Jefferson County Assessor used only Type-3 properties as comparables, and that they were less credible market sales and not indicative of the market.

5. Mr. Prokop testified that there were 3,562 sales in Area 2, the same area where the subject is located; 407 or 11% were Type 2; 2,953 or 82% were Type 3; and 202 or 7% were Type 4-6.

6. Mr. Prokop believes that the assessor used older sales in order to apply a skewed monthly percentage obtained from their time-trending analysis to increase the value of the subject.

7. Mr. Prokop testified that the subject has an access problem and that the assessor gave an arbitrary adjustment for this problem.

8. Mr. Prokop acknowledged that a time adjustment is mandated by Colorado Revised Statutes but there is no reason for the 1.5% monthly adjustment the assessor has made, which was based on an area approach.

9. Mr. Prokop described Petitioner's Exhibits 27 and 28 as letters from him to the assessor, and the reply with documents he had requested concerning sales, time trending, and sales adjustment explanations.

10. Mr. Prokop testified that he requested a search of sales occurring in the City of Arvada for homes similar in size as the subject with a selling price of \$145,000.00, and described the eight comparable sales that were found. After adjustments, he averaged the sales price and it produced a valuation of \$132,125.00.

11. Petitioner is requesting a 2001 actual value of \$135,450.00 for the subject property.

12. Under cross-examination, Petitioner testified that Comparable Sales 10 through 22 of Exhibit A were comparable to the subject, and that they were similar Type-2 homes. Petitioner further testified that the age of the home has no bearing, even if it was new construction. Mr. Prokop was asked if he thought 5270 Estes was a comparable property even though it is a townhome, and his response was that it is comparable.

13. The Board questioned Mr. Prokop concerning the easement and learned that access to the subject is through an easement provided by Lot 1, which Mr. Prokop, Sr. owns. He further pointed out that no access can be gained via 64th Avenue due to an 11-inch high retaining wall the city put in to help prevent flooding. When asked about Sales 5 and 8, which are Type-2 homes, Mr. Prokop testified they adjusted to higher values; he did not feel they were comparable to the subject.

14. Respondent's witness, Mr. Charles W. Ewing, a Certified General Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$172,200.00 for the subject property based on the market approach.

15. Mr. Ewing testified that he did not prepare the appraisal, which was done by Loretta I. Barela, but he did study it and agreed with the value.

16. Respondent's witness presented three comparable sales ranging in sales price from \$141,000.00 to \$149,900.00 and in size from 1,168 square feet to 1,799 square feet. After adjustments were made, the sales ranged from \$167,250.00 to \$176,100.00.

17. Mr. Ewing testified he had driven by the property and it did have an access problem.

18. Mr. Ewing testified that the reason Type-2 properties were not used, was they were not large enough, and the Type-3 properties were more comparable in size.

19. Mr. Ewing noted that the sales the Petitioner sent in, Respondent's Exhibit B, when adjusted come out higher than those used by the Respondent.

20. In cross-examination, Mr. Prokop questioned why the ingress and egress is noted to be typical in the original appraisal the assessor had done, and Mr. Ewing testified it was based on an old appraisal and appears it was not recognized. Mr. Prokop asked Mr. Ewing if he applied adjustments to Respondent's Exhibit B, which were the eight sales submitted by the Petitioner, and the response was affirmative.

21. Under redirect Mr. Ewing testified that a deduction was made for access and traffic, and that the Petitioner did not adjust comparables submitted for age, fireplace and condition.

22. Respondent assigned an actual value of \$172,200.00 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. The Petitioner presented eight sales from Arvada Economic Area 2, which includes the subject property. The Board reviewed these sales and agrees with the Petitioner that they occurred within the time frame allowed. And while square foot, time, quality, basement and access adjustments were recognized, other and equally important adjustments of age, condition, and updating and/or remodeling and other inclusions were absent.

3. The Board questions the Petitioner's objection of Type-3 homes used by Respondent since, according to Petitioner's testimony, there were over 2,900 sales of Type-2 homes sold in the valuation time frame, and 6 of the 8 sales used by Petitioner were also Type 3. At the same time, the Board recognizes that when adjusted, these Type-2 homes indicate a higher value for the subject than Respondent assigned.

4. The Board agrees with the Petitioner that Respondent used older sales when newer ones appear to have been available and thus could have avoided large time adjustments, which were noted to be a broad analysis and not neighborhood or property type specific.

5. The Board does not agree with Respondent's reasons for using only Type-3 homes due to size, since Respondent's Sale 3 is an older sale of 1,168 square feet with a small basement closely fitting a Type-2 home.

6. The Board reviewed additional sales in Petitioner's exhibits, some of which were analyzed and adjusted to an indicated value by Respondent. The Board agrees with Respondent that several of these sales could not be used, as one was an attached townhome and others were transferred by Quit Claim Deed. However, the Board found the Respondent's adjustments consistent with those used throughout testimony, and would indicate an even higher value for the subject if used.

7. The Board could give little weight to Petitioner's sales. Although adjusted for some differences, they were not properly documented for other physical differences such as age and condition. Pictures of sales would have been beneficial to the Board in determining comparability to the subject. After careful consideration of the testimony and evidence presented, the Board is most persuaded by the Respondent's documentation of adjustments to sales, including those extra sales submitted by Petitioner, and affirms the assigned value of \$172,200.00.

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 27th day of March, 2002.

BOARD OF ASSESSMENT APPEALS

Claudia D. Klein
Claudia D. Klein

Steffen A. Brown
Steffen A. Brown

This decision was put on the record

MAR 26 2002

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

