

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>PHILIP AND CAROLANN MAHONEY,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Philip S. & Carolann Mahoney Address: 5565 Ute Highway Longmont, CO 80503 Phone Number: (303) 823-0923 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39680</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 14, 2002, Judge Nuechter and Karen E. Hart presiding. Petitioners appeared pro se. Respondent was represented by Robert R. Gunning, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**7 ACRE TRACT IN SW4 NW 4 22-3N-70PER 124680 11/24/92 BCR
(Boulder County Schedule No. 00530-01)**

Petitioners are protesting the 2001 actual value of the subject property, a good quality two story residential dwelling built in 1973, consisting of 2,637 square feet, situated on 7 acres and located at 5565 Ute Road in unincorporated Boulder County.

ISSUES:

Petitioners:

Petitioners contend that the subject property neighborhood is, in general, extremely desirable. However, the subject property neighbors a proposed water treatment plant. They have concerns about possible future contamination and the loss of their view. They do not feel the Respondent has adequately accounted for these factors in the subject property valuation.

Respondent:

Respondent contends that the subject property has been correctly valued using sales of similar properties similarly situated. There is no dispute that a water treatment facility will be located next door to the subject. However, the comparable sales also suffer from a similar impact.

FINDINGS OF FACT:

1. Petitioner, Mr. Philip Mahoney, presented the appeal on Petitioners' behalf.
2. Petitioners presented an indicated value of \$240,000.00 for the subject property.
3. Petitioners presented no comparable sales, choosing instead to critique Respondent's comparable sales.
4. Mr. Mahoney testified that in 1999 the City of Longmont determined there was a need for additional water treatment facilities. He believes any potential purchaser would have known that engineering was taking place for the placement of water treatment facilities near the subject property.
5. Mr. Mahoney testified that two of Respondent's comparable sales are not located near the treatment plant. Comparable 1 is next to the sludge pond, similar to the subject. However, Comparable 2 overlooks a reservoir and has a spectacular view. Comparable 3 has views of the St. Vrain River. Both Comparables 2 and 3 are located some distance from the subject, and he does not believe that they will have a similar impact by the water treatment facilities.
6. Mr. Mahoney testified that his property currently has a spectacular view that will be damaged by sludge ponds. There will be a four-story building and a five-story building at the treatment facility that will block his view.

7. Mr. Mahoney testified that he was previously the city manager for the City of Aspen and, as such, he is familiar with contaminant issues. He is concerned with contamination of his water well and spring. The sludge ponds will hold giardia and other contaminants. The water will evaporate and leave raw solids that are not treated. It is an 80 million gallon water treatment facility.

8. Mr. Mahoney testified that it would cost over \$40,000.00 to obtain city water. His property has always been lush and he has never had trouble with water. His well is a spring that they use for everything but drinking water. There is an aquifer under the sludge ponds; he does not have much confidence that the lining of the ponds will prevent seepage and contamination of the aquifer.

9. Upon questioning by the Board, Mr. Mahoney testified that he arrived at his requested value by reducing the assessor's assigned value by \$40,000.00, due to the cost for new water, which is without consideration of the view degradation.

10. Petitioner is requesting a 2001 actual value of \$233,400.00 for the subject property.

11. Respondent's witness, Mr. Rex Westen, a Certified Residential Appraiser with the Boulder County Assessor's Office, presented an indicated value of \$330,000.00 for the subject property based on the market approach.

12. Respondent's witness presented three comparable sales ranging in sales price from \$375,000.00 to \$481,000.00 and in size from 1,643 to 2,682 square feet. After adjustments were made, the sales ranged from \$363,810.00 to \$450,090.00.

13. Mr. Westen testified that he inspected the property in January of 2002. The subject property is a good quality two story, frame-constructed house built in 1973; there have been some upgrades to the property. There are concerns regarding physical depreciation of the exterior siding. There is stucco veneer on a portion of the house. The balance of the exterior is the original wood siding, which is in terrible condition and is scheduled to be replaced with stucco.

14. Mr. Westen testified that there was a prior discrepancy in the square footage of the property; the actual size is larger than was previously listed on their records, as the second floor was incorrectly measured. The square footage was corrected in January of 2002; the CBOE hearing reflected the incorrect square footage.

15. There is an office area in the garage that has inferior finish as compared to the balance of the house; therefore, it is not included in the finished square footage of the property. He also did not include the basement finish area, as he smelled mildew in the basement and suspected some water damage existed. The subject property is located in one of the nicest parts of the county. However, the property's view will be highly impacted by the treatment facility.

16. Mr. Westen testified that there is an open pit mining operation near the subject as well as near Comparable Sale 1. The purchaser of Comparable Sale 1 was aware of the mine operation at the time of purchase and that their well had a low flow rate and the water was not potable; there is a noticeable odor of sulfur. The comparable property has a water cistern.

17. The comparables were adjusted for differences in time, gross living area, basement area, quality, condition, age, water cistern, outbuildings, et cetera. He took a 10% reduction for uncertainty in risk, as Mr. Mahoney would need to disclose the potential water treatment plant location to a potential purchaser. Comparable Sale 1 will have a lesser view impact with a lesser view of the sewer ponds. However, the comparable also suffers from more traffic due to its road location.

18. Mr. Westen testified that Comparable Sale 2 is located on a lake front. He made a \$75,000.00 lake front adjustment based on market data. It has a view of a water treatment plant, though it may be a lesser impact than the subject's. The quality is inferior to the subject; it was remodeled after the sale.

19. Comparable Sale 3 will have a view of an open gravel mine. There is a current gravel mine to the west of the comparable that currently presents a dust problem in the air; the purchasers were aware of this when they purchased the property. It also has a large storage shed.

20. Mr. Westen testified that he gave the most weight to Comparable Sale 1, as it was closest in proximity to the subject; even though it is newer, is a better quality and in better condition. He concluded to \$330,000.00 for the subject property as of the assessment date of June 30, 2000. He has no doubt that the subject property would have sold immediately if listed at his concluded value.

21. Under cross-examination, Mr. Westen admitted that there is a possibility that the sludge ponds could leak. The \$75,000.00 view adjustment was determined using market sales in a nearby subdivision.

22. Upon questioning from the Board, Mr. Westen clarified the position of the wastewater plant located near Comparable Sale 2. His 10% uncertainty adjustment was an estimated guess. The purchaser of Comparable Sale 1 was not aware of the proposed water treatment plant at the time of purchase.

23. Respondent assigned an actual value of \$273,400.00 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 Board has carefully examined all the testimony and evidence presented in this case. Respondent chose sales that had similar negative impacts as the subject to either water treatment plants or mining operations and made adequate adjustments for differences in characteristics when compared to the subject property.

3. The Board notes that the subject property's indicated value after deductions for uncertainty is \$330,000.00. Even with an additional deduction of \$40,000.00, as requested by Petitioners for the expense of new water sources, the value would still be higher than the assigned value of \$273,400.00.

ORDER:

The petition is denied.

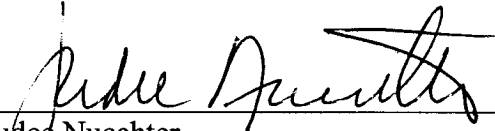
APPEAL:

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

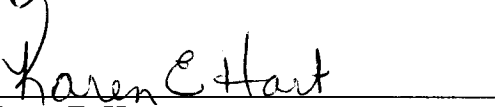
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 22nd day of February, 2002.

BOARD OF ASSESSMENT APPEALS



Judee Nuechter

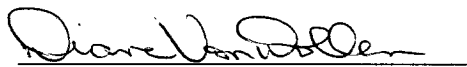


Karen E. Hart

This decision was put on the record

FEB 21 2002

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



Diane Von Dollen

