

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PATRICK A. RUSSELL,</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: Patrick A. Russell Address: 7744 Firehouse Hill Road Morrison, Colorado 80465 Phone Number: (303) 697-4934 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39702</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 appeared pro se. Respondent was represented by Jennifer Pielsticker, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**SEC 34 TWN 5 RNG 70W
Jefferson County Schedule Nos. 143521 & 198297)**

Petitioner is protesting the 2001 actual value of the subject properties: a 3.67-acre parcel of land, including a two-story double shell solar house built in 1981, with 1,364 square feet of living area, two bedrooms, two baths, a fireplace, an attached garage, and a 576 square foot barn (Schedule No. 143521); and a 9.34-acre parcel of land, including a one-story seasonal cabin, with 360 square feet of living area built in 1935 (Schedule No. 198297).

ISSUES:

Petitioner:

Petitioner contends that both the 3.67-acre and 9.34-acre parcels with improvements are overvalued, and the assessor did not consider the complexity of issues.

Respondent:

Respondent contends that the subject properties have been correctly valued based on comparable market data.

FINDINGS OF FACT:

1. The Board consolidated two separate schedule numbers under Docket No. 39702.
2. Petitioner, Mr. Patrick A. Russell, presented the appeal on his own behalf. Based on the market approach, Petitioner presented an indicated value for the subject properties as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
143521	\$155,000.00
198297	\$ 59,430.00

3. Petitioner did not present any comparable sales of his own; however, he testified that the sales shown in Petitioner’s Exhibit A, pages 11 and 38, which were comparable sales provided by the assessor and dated September 6, 2001 for Schedule No. 143521, and September 14, 2001 for Schedule No. 198297, are not similar to the subject properties, due to negative influences and intrusions.
4. Mr. Russell testified that the home, Schedule No. 143521, is a solar insulated (envelope) house wherein solar windows create the heat function, which circulates the warm air around the living area and includes an electrical heat source for back-up.
5. Mr. Russell testified that the roof on the home is wood shake; however, when a portion of it had to be replaced, Jefferson County would only allow him to install a composition roof, which detracts from the property.
6. Mr. Russell testified that it was necessary to close off a portion of the garage for a handicap therapy and treatment room for his daughter. He testified that there are no fixtures, such as a bath, and the loss of half of the garage space detracts from the property.
7. Mr. Russell testified that both properties have an access problem due to an 8-foot strip of land used as an easement, which has a negative impact on value. Mr. Russell testified that he believes this parcel of land was owned by the neighbor who had originally sold them the 3.67 acres, Schedule No. 143521. Mr. Russell testified that this strip of land was subsequently offered to him by this neighbor who also believed they owned the land but learned, when trying

to record the sale that the deed was held in the name of Jefferson County. Mr. Russell testified to a telephone conversation with Mr. Seth Ryan, the Attorney for Jefferson County, about buying the land and was told the County was not interested in selling.

8. Mr. Russell testified that Schedule No. 198297 is a 9.34-acre parcel of land with a cabin and well. Mr. Russell testified that it was part of a 20-acre parcel, and when purchased it came under a parcel enlargement procedure, which is very restrictive. Mr. Russell testified that he cannot get a building permit, it is designated as a non-site, he cannot sell it, and he cannot change the exterior of the cabin, which decreases its value.

9. In cross-examination, Mr. Russell testified that when he purchased the 3.67 acres, Schedule No. 143521, the 8-foot strip of land used for access to the properties was held by a separate deed. In subsequent years, Mr. Russell testified to negotiating for the purchase of this 8-foot strip of land from Mrs. Claire M. Strachan, whom he believed was the owner. The transaction never closed, since Jefferson County would not record the deed and the land was owned by the County. Mr. Russell testified that the County took this land away from Mrs. Strachan without paying for it. Mr. Russell testified that if he wanted to get a loan on either property, the title company would take exception to the access problem. Mr. Russell testified that he has not tried to sell the land, and that he tried to get a loan and a building permit, but could not. Mr. Russell testified that the addition of the therapy room in the garage devalues the subject property.

10. Upon questioning from the Board, Mr. Russell testified that he was trespassing by crossing the easement in order to get to the properties. Mr. Russell testified that the cabin did not have any historical value, and he does not have any letters to show being turned down by Jefferson County with regards to obtaining a building permit. When asked why he bought the 9.34-acre parcel with the cabin, he testified that the well was important to him.

11. Petitioner is requesting a 2001 actual value for the subject properties as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
143521	\$155,000.00
198297	\$ 59,430.00

12. Respondent's witness, Mr. Charles W. Ewing, a Certified General Appraiser with the Jefferson County Assessor's Office, testified to the appraisals prepared by Cary Lindeman, and agreed with the indicated value of \$238,000.00 for Schedule No. 143521 and \$85,000.00 for Schedule No. 198297, based on the market approach.

13. Respondent's witness presented four improved comparable sales for Schedule No. 143521, which ranged in sales price from \$168,500.00 to \$255,000.00 and in size from 1,152 to 1,839 square feet. After adjustments were made, the sales ranged from \$220,500.00 to \$253,000.00. Respondent's witness also presented three improved comparable sales for Schedule No. 198297, ranging in sales price from \$100,000.00 to \$169,000.00 and in size from 369 square feet to 532 square feet. After adjustments were made, the sales ranged from \$80,715.00 to \$93,615.00.

14. Mr. Ewing testified that he visited the subject property, Schedule No. 143521, and described it as a 1,364 square foot home on 3.67 acres, with two bedrooms, two baths, a fireplace, an enclosed garage, and a barn. Mr. Ewing testified to the comparable sales and described the adjustments made. He testified that comparable sales were more difficult to find in mountain areas, but these were most comparable to the subject.

15. Mr. Ewing testified to Schedule No. 198297, the 360 square foot cabin, and described the subject and comparable sales. He testified that the subject property was landlocked, even though it adjoins Schedule No. 143521, and has an easement. He testified to using a 60% adjustment for properties, which are landlocked. Mr. Ewing testified that if there were no access problem, the subject parcel would be worth over \$150,000.00, due to its 9-acre size.

16. Upon questions from the Board, Mr. Ewing testified that the 60% adjustment for landlocked property was obtained from the market, and there had been three such sales in the last time period. Mr. Ewing testified that he knew of the access problem on the cabin, Schedule No. 198297, but was not sure about Schedule No. 143521. He testified that the condition of the cabin had been taken into account by classifying it as a Type O home, which is little more than a shed.

17. Respondent assigned an actual value to the subject properties for tax year 2001 as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
143521	\$200,000.00
198297	\$ 75,990.00

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax year 2001.

2. Petitioner did not present any comparable sales of his own but discussed the assessment values of the subject, Schedule No. 143521, compared to the assessed values of neighbors' properties. The Board could not give any weight to such analysis, as it does not follow any accepted appraisal principals required to form an opinion of value. The Board understands some of the uniqueness of Petitioner's properties and affirms Respondent's opinion of value, as it was formed through an analysis of available data making reasonable adjustments for these differences.

3. The Board agrees with Petitioner that the subject property, Schedule No. 143521, has some functional problems such as half the garage being converted to a therapy room, the use of two roof materials, and other deferred maintenance issues, but agrees with Respondent that these deficiencies were considered and properly adjusted for.

4. The Board believes that the 8-foot Jefferson County deeded easement is for general public use, as stated in the deed, and has not deprived Petitioner access to either property. The Board further believes the title commitment noted in Petitioner's testimony only

speaks to an easement exception, and no other testimony was offered to convince the Board that a loan or sale of either property could not be concluded.

5. The Board was not convinced by the Petitioner that the value of the cabin, Schedule No. 198297, has been negatively influenced because Jefferson County would not allow any exterior maintenance or improvement to be performed since the Petitioner did not submit any supporting documentation to the contrary.

6. The Board finds Respondent's sales for both properties most compelling. The assigned values have taken into consideration factors which affect the valuation, including access, and is well supported by market sales.

7. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned values as follows:

<u>Schedule Number</u>	<u>Actual Value</u>
143521	\$200,000.00
198297	\$ 75,990.00

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 21st day of May, 2002.

BOARD OF ASSESSMENT APPEALS

Claudia D. Klein
Claudia D. Klein

Steffen A. Brown
Steffen A. Brown

This decision was put on the record

MAY 20 2002

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

Penny S. Bunnell
Penny S. Bunnell

