

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>EUGENE A. & MARILYN L. MONROE,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Eugene A. & Marilyn L. Monroe Address: 13780 North St. Vrain Drive Lyons, Colorado 80540-9034 Phone Number: (303) 823-0345 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 39897</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 13, 2002, Mark R. Linné 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:

**17.90 ACS M/L E ½ 4-3N-71 LESS ½ MIN PER DEED 1141626
(Boulder County Schedule No. 0058064 01)**

Petitioners are protesting the 2001 actual value of the subject property, a two story residential dwelling built in 1990, consisting of 1,610 square feet with a partially finished basement, on a 17.9 acre site near Lyons, Colorado.

ISSUES:

Petitioners:

Petitioners contend that the assessor's comparable sales are not truly comparable to the subject. Petitioners believe that they have located better sales. Respondent did not properly adjust the comparables regarding the land value differences. Respondent's Comparable Sale 1 is not comparable at all to the subject property.

Respondent:

Respondent contends that the subject property was correctly valued using sales of similar properties similarly situated that occurred during the appropriate base year. Respondent admits that it is difficult to find good comparisons for mountain properties, but believes their comparables are better than Petitioners'.

FINDINGS OF FACT:

1. Petitioner, Ms. Marilyn L. Monroe, presented the appeal on Petitioners' behalf.
2. Based on the market approach, Petitioners presented an indicated value of \$344,730.00 for the subject property.
3. Petitioners presented four comparable sales ranging in sales price from \$264,800.00 to \$386,900.00 and in size from 1,248 to 2,052 square feet. After adjustments were made, the sales ranged from \$276,040.00 to \$423,030.00.
4. Ms. Monroe testified that her Comparable Sale 1 was an assessor comparable at the September CBOE hearing. Two of her comparables are smaller in acreages; two are larger than the subject property. Her chart on Exhibit A page 1 is comparing improvements only, not land. They adjusted for age at \$500.00 per year. The other adjustments are the same factors used by the assessor.
5. Ms. Monroe presented three land sales that sold to the same person for an average of \$2,600.00 per acre. She feels that this is the value that should be used to adjust the comparables for differences in land sizes.
6. Ms. Monroe testified that Respondent's Comparable Sale 1 is located directly across the street from the subject property, but is very dissimilar to the subject. The assessor's value is twice that of the subject property, the living space is twice the size, and it has six bathrooms. It has two dwellings. The realtor description states it has potential value as a bed and breakfast. It is bounded by national forest land.
7. Respondent's Comparable Sale 2 sold for much more than the current assessor value. The assessor's office said that the buyer overpaid; they were naive buyers.

8. Respondent's Comparable Sale 3 is the same sale as Petitioners' Comparable Sale 4. It is the most expensive of the comparables.

9. Petitioners adjusted all the comparables, including those of Respondent, using \$2,600.00 per acre for the land adjustment factor. The net result was an average sales price of \$361,998.00. The adjusted value for only the Petitioners' comparables was \$344,730.00.

10. Petitioners are requesting a 2001 actual value of \$344,730.00 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 \$387,000.00 for the subject property based on the market approach.

12. Respondent's witness presented three comparable sales ranging in sales price from \$385,000.00 to \$600,000.00 and in size from 1,400 to 2,304 square feet. After adjustments were made, the sales ranged from \$383,130.00 to \$432,130.00.

13. Mr. Westen testified that he inspected the property in August of 2001, including an interior inspection.

14. The subject property was built in 1990, is of average quality construction, consists of 1,620 square feet, and has a basement garage that has recently been converted to living space. There is also a detached garage and workshop.

15. Mr. Westen testified to and corrected some errors in his comparable grid. The sales were adjusted for time and for differences in square footage, basement area and finish, quality of construction, et cetera.

16. Mr. Westen testified that Comparable Sale 1 is much larger than the subject, but he felt he could not ignore the sale, as it was located across the street from the subject. It sold in July of 2000, but the sale had been pending since April of 2000; therefore, it is a valid sale that occurred during the base period ending June 30, 2000. He would not have used the sale if it had not been located across the road from the subject.

17. Mr. Westen testified as to the adjustments used for Comparable Sale 1. There were no adjustments needed for finished walk-out basement area verses living area space in comparable sales prices for mountain properties. He did not conduct an interior inspection of the comparable, but thought it was better quality than the subject and made a \$40,000.00 adjustment. He did not make an age adjustment. His land adjustment was \$10,000.00; he considered size, privacy, view, access, and topography. He admitted that he did not notice that the subject adjoined government land, but the adjustment he made was very modest. He has changed his adjustments since the County Board of Equalization (CBOE) hearing. He used \$65.00 per square foot for the office at the comparable (what Petitioners consider the second house) versus the garage workshop at the subject property.

18. Mr. Westen did not feel that the purchasers of Comparable Sale 2 overpaid. The property has a wonderful view and access. He made no land adjustment. The view is superior to the subject, but the size is smaller; he feels the differences equaled out.

19. Comparable Sale 3 was adjusted for a garden-level basement versus the subject's walk-out basement. The land adjustment was based on the fact that most of the property is located on a steep slope. The comparable is located in a dry valley with less forestry; it has less appeal than the subject.

20. Mr. Westen gave Comparable Sale 3 the most weight as it had the least adjustments.

21. Regarding Petitioners' comparables, Mr. Westen testified that their Comparable Sale 1 has a larger living area than the subject. The basement area needs to be corrected. There is a 572 square foot basement garage and 260 square feet of basement finish. The land size is not four acres, it is .98 acres according to the original plat map.

22. Petitioners' Comparable Sales 2 and 3 are modular homes, and there is a stigma in the market for this type of property. Both properties are on larger acreages, but the lots are different in character. Comparable Sale 2 is five acres. Comparable Sale 3 has a larger basement area than the first floor; there is a sun pit to keep people away from the big windows. Comparable Sale 3 has an access issue; the road is extremely steep. The comparable is on the market and has not sold due to the steep road, according to the realtor.

23. Regarding Petitioners' land sales, the total sales price was \$400,000.00. Petitioners' sales price is actually the assessor value at \$309,700.00. Parcels 2 and 3 qualified for an agricultural classification as Forest Land, which is why the value of those two parcels is so much less than the third.

24. Under cross-examination, Mr. Westen testified that his Comparable Sale 3 has a great view despite the steep access. However, there are stone quarry views when leaving the property.

25. Upon questioning from the Board, Mr. Westen testified that the guest cottage on Comparable Sale 1 has its own garage. According to their office records, there is no kitchen in the second house. He admitted that the MLS listing indicated that there was a kitchen in the guest house.

26. Respondent assigned an actual value of \$387,000.00 to the subject property for tax year 2001.

27. In rebuttal, Ms. Monroe testified that they used to live in the house that is Respondent's Comparable Sale 1. They have personal knowledge that the second house has a kitchen and is a separate dwelling unit.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001. The Board has carefully examined all the evidence and testimony presented in this case and has affirmed the assigned value.

2. Regarding land adjustments, the Board was most persuaded by Respondent's witness that land adjustments were not simply a matter of adjusting for size differences, but that characteristics such as view, location, access, et cetera, all must be factors regarding land value. A smaller parcel may ultimately have a similar value as a much larger parcel depending upon these land variables. The Board relied upon the presented improved comparable sales to extract indicated land value adjustments.

3. The Board examined all of Petitioners' submitted comparable sales. The Board gave no weight to Comparable Sale 2, as the adjusted sales price fell well outside the range of the remaining sales. The Board discovered some adjustment errors in Petitioners' dwelling comparison grid regarding the calculation of the living area, basement and finished basement area adjustments. The Board also corrected the acreage of Comparable Sale 1, as testified to by Respondent's witness. After making these corrections and adjusting the comparables for land differences, the adjusted sales prices ranged from \$366,430.00 to \$405,130.00.

4. The Board gave no weight to Respondent's Comparable Sale 1. There was sufficient testimony and evidence to show that the assessor's records for this property were likely in error and such errors resulted in the Board having no confidence in the presented data or adjustments. The remaining corrected adjusted sales prices for Comparable Sales 2 and 3 were \$432,130.00 and \$383,130.00, respectively.

5. The Board noted that the subject property's assigned value was \$387,000.00, which falls well within the range of both parties' adjusted sale prices.

ORDER:

The petition is denied.

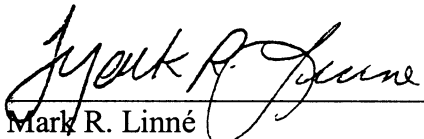
APPEAL:


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 28th day of March, 2002.

BOARD OF ASSESSMENT APPEALS

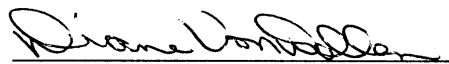

Mark R. Linné


Karen E. Hart

This decision was put on the record

MAR 20 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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