

<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>DENVER 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: 39899</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 13, 2002, Karen E. Hart and Mark R. Linné presiding. Petitioner appeared on his own behalf. Respondent was represented by Laurie J. Heydman, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3369 South Tulare Court
(Denver County Schedule No. 06333-07-022-000)**

Petitioner is protesting the 2001 actual value of the subject property, a single-family residence located at 3369 South Tulare Court, in Denver, Colorado. The dwelling consists of 2,361 square feet, and was constructed in 1985. The subject is configured with three bedrooms and 2 ½ baths. The property is situated on a site comprising a total of 6,278 square feet.

ISSUES:

Petitioner:

Petitioner objects to the current valuation assigned to his property based on the location. A high-power tension wire structure and a high-rise apartment building are adjacent to the subject. This has a serious impact on value. Time-trended values utilized by the Respondent are for typical houses in the neighborhood, not the subject.

Respondent:

Respondent contends that they have utilized the appropriate approaches to value. They have concluded a reasonable and fair market value utilized in a fair manner. The value accorded the property by the Petitioner is unreasonably low.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Michael T. Westall, presented the following indicators of value:

Market:	\$222,217.00
Cost:	Not Applicable
Income:	Not Applicable

2. The Petitioner, Michael T. Westall, testified on his own behalf, and presented a value of \$222,217.00, based on the direct sales comparison analysis.

3. The witness testified that there is a high-tension power line directly behind his house that has a significant impact on value.

4. The Petitioner testified that he examined the valuation of the property next door. This property sold in June 1994 for \$259,000.00. The property subsequently was valued by the Respondent at \$280,000.00, indicating an appreciation of 28.19%. The witness testified that he felt that the actual time-trended increase was only .46% per month during this time period, or 8.1%.

5. The Petitioner testified that the house next door is in similar condition. Both properties have a similar physical condition, and both back to the same location. Location is the critical consideration in the valuation of the subject.

6. In response to cross-examination, the Petitioner testified that he is not a Colorado Certified General Appraiser.

7. The witness testified that the time trending was only one of the factors he considered in the valuation conclusion.

8. The witness testified that he has finished the basement of the subject at a cost of \$12,000.00 since his acquisition. He put up some sheetrock, carpeted, and created two bedrooms and a family area.

9. Petitioner is requesting a 2001 actual value of \$222,217.00 for the subject property.

10. Respondent's Witness, Glenn R. Haefliger, Senior Real Property Appraiser for the Assessment Division of the City and County of Denver, and a Certified Residential Appraiser, presented the following indicators of value:

Market:	\$300,000.00
Cost:	Not Applicable
Income:	Not Applicable

11. Based on the market approach, Respondent's witness presented an indicated value of \$300,000.00 for the subject property.

12. The witness testified that all of the sales comparables are impacted by the power lines and power towers. The power line influence is similar for three of the four comparable sales.

13. The witness testified that he had applied a time adjustment of 1% per month as appropriate for the sales. He applied additional adjustments for differences in physical characteristics and other factors. After appropriate adjustments, the comparable sales presented an indicated range in value of \$296,700.00 to \$307,300.00. One of the sales utilized, comparable sale #3, occurred one month prior to the beginning of the applicable study period, but due to its proximity to the subject, this comparable was utilized in deriving a value for the subject.

14. The witness testified that he walked each site to determine the proximity of the power line to each property.

15. The witness testified that the valuation was increased at the Board of Equalization level, due to the fact that the finished basement data had not previously been on the assessment role.

16. The witness testified that comparable sales #1 and #2 are further away from the power line, but the line is still visible from these properties. Comparable sale #3 is located next door to the subject, and has the same type of exposure to the power line.

17. The witness testified that the derived market adjustment factor for the subject is indicated as slightly less than 1% per month. 246 sales from the greater neighborhood were used to derive a market adjustment factor for the subject.

18. The witness noted that comparable #3 is the property next door to the south of the subject.

19. The Respondent assigned a value of \$295,000.00 to the subject property for the applicable time period.

20. Under cross-examination, the witness agreed that location is a very important factor in valuation. The witness indicated that there was no market evidence to support a diminution for the presence of the power line. The witness testified that he would not make an adjustment for high-tension power lines without market evidence.

21. In response to questions from the Board, the witness testified that all of the sales were used to establish values for the subject.

22. Respondent assigned an actual value of \$295,000.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001.

2. While the Board notes that the Respondent has attempted to ascertain and quantify the impact of the high-tension power line, it is not convinced that the full impact of having a tower directly behind a property has been adequately addressed. While the sales were the best available, the Board believes that an additional diminution in value is appropriate to account for the power line and tower.

3. The Board agrees that the time adjustment factors applied to the various sales in this neighborhood appear strong, they were market-derived, and the testimony of the Respondent regarding their derivation is satisfactory.

4. The Board concluded that the 2001 actual value of the subject property should be reduced to \$280,000.00, with \$25,100.00 allocated to land and \$254,900.00 allocated to improvements.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$280,000.00, with \$25,100.00 allocated to land and \$254,900.00 allocated to improvements.

The Denver County Assessor is directed to change his records accordingly.

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 30th day of May, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Mark R Linné

Mark R. Linné

This decision was put on the record

MAY 29 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

