

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>VILLAGE HOMES OF COLORADO INC.,</p> <p>v.</p> <p>Respondent:</p> <p>BROOMFIELD COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Mark W. Gerganoff Frank & Finger, P.C.</p> <p>Address: 2902-A Upper Bear Creek Evergreen, Colorado 80437</p> <p>Phone Number: (303) 674-6955</p> <p>Attorney Reg. No.: 13240</p>	<p>Docket Number: 40513</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 17, 2003, Rebecca Hawkins and Karen E. Hart presiding. Petitioner was represented by Mark Gerganoff, Esq. Respondent was represented by Tami Yellico, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Land in Crofton Park, 124th Avenue and Lowell Boulevard in Broomfield; a total of 271 vacant and improved lots – 258 of which are under appeal

Broomfield County Schedule Nos.: See attached Exhibit A

Petitioner is protesting the 2002 actual value of the subject property, 258 platted building sites located in the Crofton Park development, including townhome, patio/cottage, single-family residential, and commercial sites.

ISSUES:

Petitioner:

Petitioner contends that the property was overvalued. The date of value is January 1, 2002. The subject property was acquired May 4, 2001 for \$1,792,000.00 and is in the early stages of development. Only sewer, storm drains, water and electricity have been installed. Three types of residential dwellings and two commercial support buildings will be built on the property. The appropriate methodology is development cost buildup. This method is based on actual data, requires fewer adjustments and is ultimately more reliable.

Respondent:

Respondent contends that the subject property has been properly valued. It has an excellent location near a major east/west road at 120th and Lowell Boulevard. Adams County established a base value in 2001 using an exact cost method and comparable sales. The sell-out period for 2002 was calculated according to the Assessors Reference Library (ARL) guidelines. The cost buildup method uses direct cost of development, but so does the present worth method.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Todd Stevens, a Registered Appraiser, testified that he inspected the subject property, which is a series of parcels located off of 124th Avenue and Lowell Boulevard. The entire development consists of 95 single-family lots, 86 cottage lots, 88 townhome lots and two commercial lots. The infrastructure varies depending on location. Of the 95 single-family lots, 45 lots are developed and 50 lots have been graded only. Of the 86 patio/cottage lots, 52 lots have been developed and 34 lots have been graded and also have water and sewer lines installed. Of the 88 townhome sites, 32 lots have been developed, 28 lots have been graded only and 28 lots have been graded and also have water and sewer lines installed. The single-family lots are typically 5,800 to 7,000 square feet, patio/cottage home lots are typically 3,000 to 4,000 square feet and townhome lots are typically 1,300 to 2,000 square feet.

2. Mr. Stevens testified that, as of January 1, 2002, some lots are 100% developed, some have water and sewer and some are just graded. All lots have been platted. Less than 80% of the lots were sold as of the assessment date. The product offered for the single-family lots is mostly frame construction with some ornamentation such as rockwork and asphalt roof. They will vary in price, dependent on model type, ranging from \$219,500.00 to \$277,000.00 for single-family homes.

3. Mr. Stevens testified that he surveyed the area and prepared a limited summary consulting assignment, Petitioner's Exhibit A, with the indicated value at \$4,533,680.00. He used the development cost buildup method due to the lack of sales and to account for various stages of development within the subdivision. Mr. Stevens derived a value for the raw land, added land improvements, determined a discount rate, and arrived at a per lot value. The owners purchased the subject property on May 4, 2000 for \$1,792,000.00, or \$26,599.37 per acre. He added the improvement costs to the purchase price. He used \$8,000.00 as a base land value for the single-family homes, \$6,000.00 for the cottage homes and \$5,500 for the townhome lots. He then added development costs, profit and overhead to arrive at an adjusted selling price of \$32,585.00 per single-family lot.

4. Mr. Stevens testified that the subject development does not have any land only sales; of the 269 original vacant residential lots, 258 are still remaining and are the subject of this appeal. Eleven lots are improved with dwellings and are not a part of the appeal. The two commercial lots were not included in the absorption analysis, as they would have a different absorption rate. Mr. Stevens testified that his absorption analysis was based on sales from a comparable development with similar products and price range. Wyndam Park is located in Jefferson County within the city of Arvada. He determined an absorption rate of 32.7 lots per year and an eight-year absorption period.

5. Mr. Stevens testified that the agreement for pulling building permits is for five years. Since they will still have to build and sell the lots, an eight-year absorption period looked reasonable. Petitioner's Exhibit A, page 18, shows the discount rate formulation following the guidelines of the ARL. The safe rate and liquidity rate were fixed by the Division of Property Taxation (DPT). The management and risk rate are variable. Mr. Stevens used the DPT recommended management rate of 2%. He used 3% for the risk rate, which is somewhat higher than the DPT recommendation. The total discount rate is 10.92%, rounded to 11%. He used the Integra Real Estate Report as a check for his discount rate. It showed a range from 12% to 20%; therefore, his 11% discount rate seemed reasonable. The present worth factor is 5.14612, for a present worth of \$20,961.00 per lot for single-family developed lots.

6. Mr. Stevens testified that he used the same methodology for calculating the present worth of the 50 single-family lots that were simply graded and the 52 developed cottage lots. The graded single-family lots had a present worth of \$9,592.00 per lot. For the graded cottage lots, Mr. Stevens corrected the figures in Petitioner's Exhibit A, page 22. The cost of grading should read \$270,660.00, resulting in a 2002 cost basis of \$16,097.00 per lot. This number is carried down into the present worth calculation to indicate a value of \$15,250.00 per lot (corrected). For the graded cottage lots with water and sewer, he indicated a present worth of \$11,147.00 per lot. The 32 developed townhome lots have a present worth of \$14,430.00 per lot. For the 28 graded townhome lots with water and sewer, he indicated a present worth of \$10,312.00 per lot. For the 28 townhome lots with grading only, he used only the costs of soil testing, engineering and grading. The present worth of these lots is \$7,981.00.

7. Mr. Stevens presented six comparable sales of single-family developments that sold in the immediate area of the subject and north Denver, ranging in price from \$325,800.00 to \$2,920,000.00, or \$27,150.00 to \$37,163.00 per lot. Sale 1 has 12 lots, is located next to the subject, but has smaller lot sizes. The adjusted price per lot for Sale 1 was \$27,150.00. Sale 2 has 18 lots that are similar in lot size, and has an adjusted price per lot of \$30,750.00. Sale 3 has a total of 14 lots that are similar in size to the subject lots, with an adjusted price per lot of \$27,689.00. Sale 4 has 27 lots that are larger than some of the subject sites. The adjusted price per lot for Sale 4 is \$37,163.00. Sale 5 has 16 lots that are larger than some of the subject sites, with an adjusted price per lot of \$35,000.00. Sale 6 has 79 lots in the Broadlands that are slightly larger than some of the subject sites. It is a golf course community and commands a higher per lot price. The adjusted price per lot for Sale 6 is \$36,962.00.

8. Mr. Stevens listed each lot, their condition and the product type allowed on page 34 in the addenda of Petitioner's Exhibit A. Of the lots listed, the following lots are no longer in dispute:

Lot 1, Block 1 - R0130636
Lot 2, Block 1 - R0130637
Lot 3, Block 1 - R0130638
Lot 5, Block 1 - R0130640
Lot 6, Block 1 - R0130641
Lot 7, Block 1 - R0130642
Lot 8, Block 1 - R0130643
Lot 53, Block 1 - R0130688
Lot 54, Block 1 - R0130689
Lot 55, Block 1 - R0130690
Lot 56, Block 1 - R0130691

9. Only one development sale occurred during the base period. The sale in the Broadlands was platted, engineered and rough graded. There were virtually no other sales available. Due to the lack of developed cottage or townhome lots during the base period or the extended base period, he believes the buildup methodology is appropriate. Based on the buildup method, Petitioner presented an indicated total value of \$4,719,164.00.

10. Under cross-examination, Mr. Stevens testified that Petitioner did not submit the assessor's development questionnaire, which is a legal requirement to be filed with the assessor. He testified that the sales data utilized should be as of June 30, 2000. Regarding the location of the sales shown on page 16 of Petitioner's Exhibit A; Sale 1 is now in Broomfield, Sale 2 is about 30 blocks south of the subject at 92nd and Federal, Sale 3 is in Adams County a few miles from the subject property, Sale 4 is five miles from the subject, and Sale 5 is about three miles away. Other than Sale 6, Mr. Stevens did not find any other sales in Broomfield.

11. Upon further cross-examination, Mr. Stevens testified that he developed the absorption rate using the Wyndam development in Arvada at 64th Avenue and Ward Road. The competitive environment he looked for was similar product. The closest development was the Broadlands, which is superior to the subject. It is a golf course community with more amenities.

Mr. Stevens addressed his figure for profit and overhead; he used 10% of the buildup value per lot. Builders suggest 5% to 15%; he believes something less than 10% is profit. The grading cost shown on page 22 in Petitioner's Exhibit A could be an error. He testified that this would affect the final buildup value for the cottage lots.

12. Under redirect, Mr. Stevens recalculated the developed cottage lots to reflect the correct figure for grading at \$270,660.00. The 2002 cost basis should be \$16,097.00 per lot, profit and overhead \$1,609.00, adjusted selling price \$23,706.00 and a present worth of \$15,250.00 per lot. He further testified that he had sent data regarding the costs to the assessor for the earlier hearing and again later on, but that no additional data had been requested.

13. Petitioner did not present a market approach or income approach to value.

14. Petitioner originally requested a 2002 actual value of \$4,533,680.00 for the subject properties. Based on the corrections made for the developed cottage lots, the revised requested 2002 actual value for the subject properties is \$4,719,164.00.

15. Respondent's witness, Mr. John Storb, a Certified General Appraiser with the Broomfield County Assessor's Office, testified that he prepared Respondent's Exhibit 1. The subject property is in Crofton Park in the southeast portion of Broomfield. It is one-half mile north of 120th Avenue, which is a main traffic arterial. It fronts Lowell Boulevard, a major arterial, and is within three miles of all residential construction in Broomfield. The topography is flat with no trees and no flood plain issues. The subject was purchased March 15, 2000 for \$1,792,000.00 and included 67.67 acres. It was subdivided in December 2000 resulting in 88 townhome lots, 86 cottage lots, 95 single family lots and 2 commercial lots for daycare and assisted living.

16. Mr. Storb used the discounted subdivision procedure. He determined which lots were eligible for discounting, calculated the unadjusted market price, adjusted for development costs to arrive at the adjusted market price, determined an absorption rate, and applied a discount rate.

17. Mr. Storb testified that he performed a field inspection and mailed the subdivision questionnaire. He valued the land as raw land for 2001 at \$6,217.00 per lot, by type. He determined five types of lots. He calculated the present worth value of the subject for 2002. In 2001, they began to develop the subject; as of January 1, 2002, all of the lots were at least graded and there were some partially completed houses.

18. Mr. Storb received some information for the County Board of Equalization (CBOE) hearing relative to the testing and grading costs for the subject property. For today's hearing, he performed a field inspection and looked at comparable sales. Adams County had originally calculated a five-year absorption for the single-family lots and the cottage lots, and a three-year absorption for the townhome lots; they used a 10% discount rate. He did not use multiple sellouts; he used a five-year absorption rate and a 10% discount rate for all of the lots.

19. Mr. Storb testified that the townhome lots range in size from 1,700 to 2,000 square feet, the cottage lots range from 3,500 to 4,000 square feet and the single-family lots range from 5,500 to 11,500 square feet per lot. He testified that Sale 4, the Broadlands, had three sales of

cottage lots that were only platted at the time of sale. Based on the \$15,000.00 sale and the \$15,000.00 development cost, with no profit or overhead, the value of \$30,000.00 applied to the townhomes and patio homes is supported. The townhomes in the Broadlands are not on the golf course and sell for the same price range as the subject lots. He believes that the land value for both the single-family and cottage lots should be \$30,000.00. This figure is lower than the \$40,000.00 value that Adams County applied to the cottage lots.

20. Mr. Storb testified that the housing price range for the larger lots is \$260,000.00 to \$290,000.00. The base value per lot is \$40,000.00. Willow Run is one-half mile east of the subject and had two developed lot sales. In December 1998, Willow Run had 15 lot sales for \$27,000.00 per lot; and in April 1999, 17 lots sold for \$27,400.00 per lot. The product in Willow Run is inferior to the subject product; in 1999 and 2000, the homes sold for \$150,000.00 to \$193,000.00. These sales and the allocation method support a lot value for the subject property of \$40,000.00.

21. Mr. Storb testified that Adams County used a 10% discount rate for 2002 in residential subdivisions in what is now Broomfield. The subject lots were all in different stages of development. Since the owner did not provide sufficient information, including profit and overhead, he used the DPT infrastructure worksheet shown on page 19 of Respondent's Exhibit 1. Page 29 of Respondent's Exhibit 1 shows Adams County's present worth valuation for Crofton Park townhomes. Adams County used a market value of \$30,000.00 and a three-year absorption rate. The actual value for the townhome lots is \$6,217.13, and \$7,581.57 for the single-family and cottage lots. Mr. Storb included his and Mr. Stevens' discounting methods on pages 20 through 28 in Respondent's Exhibit 1. The total value calculations are shown starting on page 36 of Respondent's Exhibit 1.

22. Mr. Storb testified that he had some concerns regarding Petitioner's Exhibit A. He thinks the costs used were internal, rather than market. On page 19 of Petitioner's Exhibit A, Mr. Stevens only used one subdivision that is also a Village Homes development. Mr. Storb thinks that the Broomfield area has the most competing developments in the most competitive environment in northwest Broomfield. Mr. Storb testified that he felt that the eight-year sellout used by Mr. Stevens was not market derived.

23. Mr. Storb testified that Respondent's Exhibit 2 is his rebuttal for the absorption analysis. This analysis is based on sales in the Broadlands that had a mean of 75 lot sales per year. This equates to 3.61 years, rounded to four for a sellout period. A four-year sellout was used for both 2001 and 2002.

24. Mr. Storb believes that the calculation shown on page 19 of Petitioner's Exhibit A should be used for 2001 and then seven years would be used for 2002, the intervening year. He testified that development costs can be used and that Petitioner's development profit is actually about 3 to 4%. The Integra Survey shows total profit as 25-30%. Mr. Storb testified that if Mr. Stevens used the maximum risk rate, he should have used a maximum profit rate.

25. Under cross-examination, Mr. Storb testified that he believes Mr. Stevens used the appropriate process and does not object to the raw data applied in the formula. However, Mr. Storb believes that the profit is understated. He feels that the townhome and cottage lot values are based on the market approach and that both the market approach and the allocation approach were used to value the single-family lots. The single-family lot value can vary based on upgrades. Mr. Storb used the allocation method to validate his market value conclusion for each lot.

26. Under further cross-examination, Mr. Storb testified that he does not know if the developer of the subject property is planning to make a profit on the lots versus the improvements, or both. Mr. Storb then addressed competitive development, referring to page 4.34 in Respondent's Exhibit 3. He feels that competitive developments are not limited to within a city or county area.

27. After questions from the Board, Mr. Storb testified that he used the same discount rate as Adams County for the sake of consistency. He does not know how they developed the rate. This was the rate used in other subdivisions as well. He also restated that Willow Run had a lower price range and a lesser quality product.

28. During Petitioner's rebuttal, Mr. Stevens testified about the community development sale to Oakland Homes. In checking with the Land Development office, he found that the land was platted, engineered and rough graded as of the date of sale. This is contrary to Mr. Storb's testimony and page 17 of Respondent's Exhibit 1. The other three golf courses with which he is familiar do rough grading to lower costs. Typically, golf course communities sell out faster than non-golf course communities. He believes that the Broadlands is a very nice golf community. He testified that the Willow Run lots are a little smaller than the subject lots, but based on the allocation method, the builder is dictating the land allocation based on the housing product. Mr. Stevens believes golf course communities sell out faster as there is a demand for open space and amenities. He agreed that the ARL says you should reduce the sellout by one year. He did not feel this was necessary as markets start off slowly, peak and then slow down. He stayed with his sellout of 7.9 years. He addressed profit and overhead at 6.9% not 3%. He testified that a developer looks for 5-15% return on their investment. The builder looks for 20-30% return on their investment, based on upgrades. We are only looking at the developer, not the builder. He mentioned that other reports within the Integra Survey such as Nation Commercial item 20 shows 6-10% profit and item 27 shows a profit of 12-14%.

29. Upon cross-examination, Mr. Stevens testified that rough grading in the Broadlands subdivision would have little effect on value. The amenities at golf courses are usually nicer than other non-golf course communities.

30. According to Respondent's Exhibit 1, page 36, Respondent assigned an actual value of \$6,733,360.00 to the subject property for tax year 2002. However, according to the same exhibit, Respondent is recommending a reduction in value to \$6,152,760.00.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2002. Only tax year 2002 is under appeal, although the 2001 values had to be revisited to determine a correct absorption period and value for 2002, which was an intervening year.

2. The Board notes that there are two commercial lots located in the development that appear to not be value contested. Additionally, there are 22 improved properties in the development that are no longer vacant and the Board affirms the values assigned to these properties. The remainder of this decision deals with the vacant residential lots contained in the appeal.

3. The Board reviewed the lot sales from the Broadlands Subdivision that were presented by Respondent. The Board determined that these sales are not representative of the same market as the subject development due to the golf course amenity. The subject development does not have a golf course and the Board believes golf course communities afford amenities to all lots in the subdivision regardless of location. Since all of the lots in the development are positively influenced by the golf course and its amenities, these communities command higher prices in the marketplace.

4. Furthermore, the Board concluded that the Willow Run sales presented by Respondent were inferior to the subject due to substantial price differences. The Board agrees that the development cost buildup method would be an acceptable value tool in the absence of actual sales of building lots.

5. The Board was satisfied that the Petitioner sufficiently analyzed data from a competitive environment to determine the absorption (sellout) period. Although this development, Wyndham Park, is farther away, it contains a mix of product types by the same builder in a similar price range. Per ARL guidelines, the absorption period must be reduced by one year for an intervening year and then the present worth factor for the modified absorption period is applied. The Board was persuaded that the sellout period for the base year of 2001 should be eight years. The intervening year of 2002 must then be calculated using seven years.

6. The Board carefully considered all of the evidence and testimony and found considerable support for a discount rate of 11% and the builder/developer profit between 10% and 15%. Respondent's witness, Mr. Storb, used a 10% discount rate, but testified that may be understated. However, he did not offer a replacement figure. Petitioner's witness, Mr. Stevens, testified that a developer looks for profit between 12 and 20%. Mr. Stevens included the Integra Survey as support for both the profit and discount rate. The Integra Survey shows a discount rate between 12 and 20%. The Board was convinced that an 11% discount rate and 15% for profit and overhead were valid.

7. The Board recalculated Petitioner's present worth calculations using an 11% discount rate, 15% profit and overhead and the appropriate present worth factors.

8. After careful consideration of all the evidence and testimony presented, the Board

concluded that the 2002 actual value of the subject property should be reduced to the following lot value by type:

<u>Lot Type</u>	<u>Lot Finish</u>	<u>Total Value</u>	<u>Present Worth Value</u>
Single-Family	Developed	\$33,702.00	\$22,687.00
Single Family	Graded Only	\$15,225.00	\$10,249.00
Cottage/Patio	Developed	\$24,512.00	\$16,500.00
Cottage/Patio	Graded/Water/Sewer	\$17,844.00	\$12,012.00
Townhome	Developed	\$23,202.00	\$15,619.00
Townhome	Graded/Water/Sewer	\$16,510.00	\$11,114.00
Townhome	Graded Only	\$12,721.00	\$ 8,563.00

ORDER:

Respondent is ordered to reduce the 2002 actual value of the subject property to the Present Worth Values per lot as shown in Conclusion #8.

The Broomfield County Assessor is directed to change her 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 5th day of February, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Rebecca Hawkins

Rebecca A. Hawkins

This decision was put on the record

FEB 05 2004

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

Penny S. Lowenthal
Penny S. Lowenthal

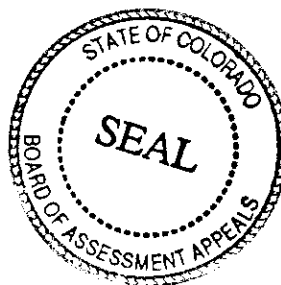


Exhibit A

PARCEL ID

R0130636	R0130669	R0130706	R0130741	R0130778	R0130852
R0130637	R0130670	R0130707	R0130742	R0130779	R0130853
R0130638	R0130671	R0130708	R0130743	R0130780	R0130854
R0130640	R0130672	R0130709	R0130744	R0130781	R0130855
R0130641	R0130673	R0130710	R0130745	R0130782	R0130856
R0130642	R0130674	R0130711	R0130746	R0130783	R0130857
R0130643	R0130675	R0130712	R0130747	R0130784	R0130858
R0130644	R0130676	R0130713	R0130748	R0130785	R0130859
R0130645	R0130677	R0130714	R0130749	R0130786	R0130860
R0130646	R0130678	R0130715	R0130750	R0130787	R0130861
R0130647	R0130679	R0130716	R0130752	R0130788	R0130862
R0130648	R0130680	R0130717	R0130753	R0130789	R0130863
R0130649	R0130681	R0130718	R0130754	R0130790	R0130864
R0130650	R0130682	R0130719	R0130755	R0130791	R0130865
R0130651	R0130683	R0130720	R0130756	R0130792	R0130866
R0130652	R0130684	R0130721	R0130757	R0130793	R0130867
R0130653	R0130685	R0130722	R0130758	R0130794	R0130868
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R0130659	R0130691	R0130728	R0130764	R0130805	R0130874
R0130660	R0130694	R0130729	R0130765	R0130806	R0130875
R0130661	R0130695	R0130730	R0130766	R0130807	R0130876
R0130662	R0130696	R0130731	R0130767	R0130808	R0130877
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R0130664	R0130698	R0130733	R0130769	R0130810	R0130888
R0130665	R0130699	R0130734	R0130770	R0130811	R0130889
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	R0130705	R0130740	R0130776	R0130851	R0130895

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