

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>KEITH BERNDTSON AND MARK BERNDTSON,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Keith Berndtson Address: 1882 Fall River Road Estes Park, Colorado 80517-9106 Phone Number: (970) 586-2144</p>	<p>Docket Number: 40585</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 24, 2003, Debra A. Baumbach and Steffen A. Brown presiding. Petitioner Keith Berndtson appeared, pro se, representing the Petitioners. Respondent was represented by Jeannine S. Haag, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**R0548235
(Larimer County Schedule No. 35224-00-028)**

Petitioners are protesting the 2002 actual value of the subject property, a 609 square foot log residence, containing two bedrooms and one bath, built in 1949, located on .93 acres northeast of downtown Estes Park, Colorado.

ISSUES:

Petitioner:

Petitioners contend that Respondent valued the subject too high, claiming that because homes of this type typically stay in the family there were no comparable sales when, in fact, he found forty cabins which had sold within the base period.

Respondent:

Respondent contends the subject property, a year around cabin, was correctly valued based on comparable data using the market approach.

FINDINGS OF FACT:

1. Petitioners presented their appeal on their own behalf.
2. Based on the market approach, Petitioners presented an indicated value of \$72,584.00 for the subject property.
3. Petitioners presented twenty-one comparable sales ranging in sales price from \$33,000.00 to \$162,500.00 and in size from 426 to 966 square feet. After adjustments were made, the sales ranged from \$41,058.00 to \$164,816.00.
4. Mr. Berndtson testified that the twenty-one sales shown in Petitioner's Exhibit A were from the local Multiple Listing Service (MLS). All of the sales are within the appropriate time frame, less than 1,000 square feet and on less than two acre sites.
5. Mr. Berndtson testified that five of the cheapest sales were discarded, seven of the eight most expensive sales were kept and four sales from the middle range were used as shown on page 2 of Petitioner's Exhibit A. Mr. Berndtson described the sales as follows:
 - 2236 Eagle Cliff is in the Roosevelt Forest with a panoramic view of Estes Valley
 - 350 Virginia has a "Lumpy Ridge" view, large windows and has been remodeled
 - 1061 Acacia has a Longs Peak view and is a ten year old manufactured house
 - 250 Riverside Drive is on a private road with a "Lumpy Ridge" view
 - 2599 Big Thompson is in a "cabin colony" similar to his home but has a river view
 - 800 Bailey has a "Lumpy Ridge" view
 - 1351 Riverside Lane has a Continental Divide view
 - 2611 Big Thompson is in a "cabin colony" similar to the subject
 - 630 Larkspur has a Longs Peak view
 - 840 Columbine has a Longs Peak view

6. Mr. Berndtson testified that the square foot difference is based on a proportional adjustment, 10 percent was given for a view adjustment, and the adjustment of \$23,250.00 shown on page 3 of Petitioner's Exhibit A, reflects the cost of connecting to city water plus one half of the total estimated remodeling costs.

7. Mr. Berndtson described the subject property by referring to Respondent's Exhibit 1, page 5, testifying that he is about one eighth of a mile from the river but has no access; there is no view of the mountains, only the 8,800 foot high Castle Mountain; he does not have drinkable water which would cost approximately \$7,000.00 for the water tap and \$6,000.00 for the plumbing and trench; wiring is old fashion; heat comes from a gas propane heater; bedrooms are unheated; the ceiling sags and has water stains and the water heater is fifty years old.

8. Under cross-examination, Mr. Berndtson affirmed he visited every neighborhood and looked at all the sales but did not go inside which is why he adjusted only one half of the estimated remodeling costs. He admitted not verifying or knowing about the water quality of the comparable sales.

9. Petitioners are requesting a 2002 actual value of \$72,892.00 for the subject property.

10. Respondent's witness, Ms. Linda L. Arnett, an appraiser with the Larimer County Assessor's Office, presented an indicated value of \$105,800.00 for the subject property, based on the market approach.

11. Respondent's witness presented four comparable sales ranging in sales price from \$105,000.00 to \$150,000.00 and in size from 426 to 816 square feet. After adjustments were made, the sales ranged from \$133,976.00 to \$146,746.00.

12. Ms. Arnett personally inspected the subject property on December 4, 2001, with Ms. Barb Gunzenhauser, another appraiser with the Larimer County Assessor's Office. Ms. Arnett described the subject as being on almost one acre of land located in a good neighborhood within and northwest of downtown Estes Park, Colorado. She testified city water is available near the boundary of the subject property and if a holding tank were used water is available through the Town of Estes Park for .25 cents per forty gallons of water.

13. Ms. Arnett described the sales, testifying that most weight was given to Comparable Sale 1 since it is similar in age as the subject but larger in size and adjusted \$97.00 per square foot based on a multiple regression analysis and adjusted 5 percent for location because it was inferior to the subject even though you could see Longs Peak through the trees. Comparable Sale 2 is described as a Quonset hut on a smaller lot with an inferior location. Comparable Sale 3 is similar to the subject, includes a 10x20 foot outbuilding, has a Big Thompson location but due to heavy commercial traffic traversing a private road daily was given a 5 percent location adjustment. Comparable Sale 4 is on an inferior low elevation site and has a shared well.

14. Ms. Arnett then described each sale submitted by Mr. Berndtson in Petitioner's Exhibit A, testifying that 2073 Big Thompson is in the Canyon, is on very small lot, has a cabin on it which

was torn down and the value was considered as vacant land; #2 is a one and a half story home with a basement on a small lot; #3 had two buildings on it; #4 is in the Canyon on a small lot; #5 is on a small lot steep lot; #6 is a questionable sale; #7 has an outbuilding; #8 has a Canyon location; #9 is on a small lot with commercial nearby; #10 was used in her analysis; #11 on a very small lot and not a comparable area; #12 was split from a larger parcel; #13 is on a small lot and is a larger house; #14 is on a small lot and not comparable; #15 is on a small lot; #16 sold by Personal Representative Deed; #17 has a downtown location; #18 is part of four buildings; #19 is half a duplex; #20 and #21 are not comparable to the subject.

15. Under cross-examination, Ms. Arnett disagreed that the more expensive homes have a Longs Peak view and admitted there were no sales in the subject neighborhood similar to the subject.

16. Respondent assigned an actual value of \$105,800.00 to the subject property for tax year 2002.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2002.

2. The Board carefully reviewed Petitioners' comparable sales agreeing they are all less than 1,000 square feet and located on sites less than two acres. However, the Board was not persuaded that discarding some of the sales because they were from the low or high range would be appropriate unless there were supporting reasons, including pictures and confirmations in order to determine if a market adjustment would be reasonable. Using median and average sales prices or deducting a portion of the cost of remodeling in order to arrive at a value conclusion does not follow any accepted appraisal principals in order to arrive at a value conclusion.

3. The Board agrees with the Petitioners that the subject is in fair condition based on the description and pictures. While the cost to connect to city water may be \$13,000.00 an adjustment to comparable sales may or may not be justified since there was no confirmation as to the water quality of the sales. Therefore, the Board could give little weight to Petitioners' adjustment for the lack of support.

4. The Board agrees with Petitioners that some adjustments may be subjective in nature but a confirmation and analysis of each sale as their differences would help to lessen the chance of subjectivity. Pictures of each sale would also have helped the Board to determine the comparability to the subject and would further support Petitioners' opinion.

5. The Board carefully reviewed Respondent's sales, the attached pictures and find them most compelling. While the Board may agree with Respondent that land in Larimer County is valued according to the buildable site method it does not agree that views are not to be considered unless location would off set the adjustment. The Board was also not persuaded by the Respondent that the market would not support adjustments for age or condition as in the case with Comparable Sales 2 and 3, which have been remodeled.

6. The Board, however, is convinced the appraised value is higher than what is assigned, given its deferred maintenance. After recalculating Respondent's adjustments to include condition and views the Board's conclusion was that it would not have made any significant difference to the assigned value. Therefore, after careful consideration of all the evidence and testimony the Board affirms Respondent's assigned value of \$105,800.00.

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 April, 2003.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Steffen A. Brown

Steffen A. Brown

This decision was put on the record

APR 21 2003

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

