

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WARREN JACK O'BRIEN,</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: Warren Jack O'Brien Address: 8479 Doubleheader Ranch Road Morrison, Colorado 80465 Phone Number: (303) 697-6134</p>	<p>Docket Number: 41064</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 2, 2003, Debra A. Baumbach and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Martin E. McKinney, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**8479 Doubleheader Ranch Road
Jefferson County Schedule Nos. 034006, 034159, 148324**

Petitioner is protesting the 2002 actual value of the subject property located at 8479 Doubleheader Ranch Road, Morrison Colorado. The property consists of a single-family dwelling, as well as two cabins.

ISSUES:

Petitioner:

Petitioner contends that his property, which includes a single-family residence and two older cabins, has been overvalued and that the appraisal report being submitted by the Jefferson County Assessor's office has erroneous data and should be rejected. Further, the county has not considered the effects of the unique design characteristics and waste management system of his property, which would affect potential buyers of the property.

Respondent:

Respondent contends that the subject property is residential property and that the market approach is the only approach to value that can be considered.

FINDINGS OF FACT:

1. Mr. Warren Jack O'Brien, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$219,290.00 for Schedule No. 148324 containing 10.286 acres and one improvement with 1,608 square feet of living area and a Clivus Multrum composting toilet system. Schedule No. 034006, consisting of 1.390 acres and an older cabin with 536 square feet of living area with no water, sewer/septic or heat, should have an indicated value of \$18,080.00. Schedule No. 034159, another older cabin with 608 square feet of living area on .809 acres with no water, sewer/septic or heat should be valued at \$10,740.00.
3. Mr. O'Brien testified that the main dwelling is 24 years old, has an open floor plan, and incorporates a hybrid solar energy system. Supplemental heat is provided by a centrally located wood-burning stove or from an electric furnace. Due to the limited degree of personal privacy, Petitioner feels that his dwelling would be unsuitable for a family with children without major modifications. There are no flush toilets. He believes that his dwelling is a high-maintenance facility.
4. Petitioner testified that, after he built the main dwelling, he had to purchase two cabins built in 1932 that encroached on his property. The O'Brien Family Trust purchased these cabins in 1992.
5. The Petitioner presented the County Assessor's valuations of three similar properties that ranged from 2,848 square feet to 3,264 square feet in dwelling size. These properties were valid sales, but were not adjusted by Petitioner.
6. Mr. O'Brien presented Petitioner's Exhibit 7, which indicated an estimated market value of the subject property as of June 30, 1998. This information is outside the base period and the Board cannot consider the presented value. Petitioner's Exhibit 8 presents six sales that had been

obtained from the County Assessor's office. Mr. O'Brien relied on values for each of these properties based on the Notices of Value and the Notices of Determination from Jefferson County on May 1, 2002 and July 11, 2002. The Board indicated minimal weight would be assigned to Exhibit 8.

7. The Petitioner testified that the two cabins have not been improved, are uninhabitable and are used for storage. There should be no value placed on the cabins. To Mr. O'Brien's knowledge, the county has not physically inspected the cabins.

8. During cross-examination, the Petitioner testified that the only comparable sales he had were those used by the Assessor. No adjustments had been made to these comparable sales.

9. Petitioner is requesting a 2002 actual value of \$219,290.00 for Schedule No. 148324, \$18,080.00 for Schedule No. 034006, and \$10,740.00 for Schedule No. 034259.

10. Respondent's witness, Mr. David D. Niles, a residential land appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$330,000.00 for Schedule No. 148324, \$17,300.00 for Schedule No. 034159, and \$23,000.00 for Schedule No. 034006, based on the market approach to value.

11. For Schedule No. 148324, Respondent's witness presented three comparable sales ranging in sales price from \$225,000.00 to \$279,000.00, and in size from 1,615 square feet to 2,116 square feet. After adjustments were made, the sales ranged from \$272,100.00 to \$345,000.00. Time adjustments were applied based on a rate of .90% per month derived from sales ratio trend analysis within the county.

12. For Schedule Nos. 034159 and 034006, Mr. Niles presented three comparable sales ranging in sales price from \$45,000.00 to \$50,000.00 and in size from 312 square feet to 598 square feet. After adjustments were made, the sales ranged from \$48,200.00 to \$55,900.00 for Schedule No. 034159. Adjusted values ranged from \$43,800.00 to \$52,600.00 for Schedule No. 034006.

13. Respondent's witness testified that he has evaluated the three properties and made a physical inspection. The main property has 10.286 acres with a two-story contemporary mountain home of average quality. The cabins do not have direct access from Doubleheader Ranch Road. The cabins are of low quality with no services except electricity. Family members own the two cabins. At one time, the two cabins were classified with the main dwelling. At the request of Mr. O'Brien, the property was separated with a schedule number assigned to each cabin. As a result, the total actual value of each of the three properties changed slightly, as indicated in the county's Corrected Notices of Value. The price per acre of a total site is typically decreased, whereas when the site is separated, the price per acre increases. Multiple buildings on one site are typically given a deduction in value. When the subject property was separated, the multiple building deductions were eliminated. The Assessor's office has classified the cabins as residential property. Vacant land assessment rates are higher than residential assessment rates; thus, the residential classification is more beneficial to the Petitioner.

14. Mr. Niles testified that the three comparable sales he used to compare with the main

dwelling are within a mile of the subject property, and that two of the sales are located on the same access road as the subject property in the Doubleheader Ranch Subdivision. Land adjustments were made to all three sales. Sale 2 has superior views, which accounts for a portion of the land adjustment indicated in Respondent's Exhibit 1. All of the comparable properties were built in the same time period. Appropriate adjustments were made for differences in gross living area. The main dwelling of the subject property has an 860 square foot basement, indicating adjustments to all three sales. Mr. Niles also applied heating and porch adjustments to the comparable sales. Time adjustments were made based on legal requirements. Respondent's witness is aware of the composting toilet and partial walls in the main dwelling of the subject property. Mr. Niles believes there is plenty of difference between the market value and the assessed value to accommodate those amenities, even though they typically do not show up on the Assessor's records.

15. Respondent's witness testified that there were a very limited number of comparable sales available for Schedule Nos. 034159 and 034006. He used summer cabins that do not have water, plumbing or heating, and made appropriate time adjustments due to dated sales. Mr. Niles used the same comparable sales for both of the subject cabins. The indicated value for Schedule No. 34159 was \$52,000.00, although the county's assigned value \$17,300.00. The indicated value for Schedule No. 034006 is \$48,500.00, with an assigned value of \$23,000.00.

16. Mr. Niles indicated that comparable sales 1 and 2, used for the main dwelling, are located in a subdivision adjacent to the subject, rather than in the same subdivision as he had previously testified. The subject property is a metes and bounds description and is not located in the Doubleheader Ranch Subdivision.

17. During cross-examination, Respondent's witness indicated that he did not make a physical inspection of the comparable sales he used in the main dwelling appraisal report, but that he did an exterior inspection for the cabins used as comparable sales, and spoke to the owners of comparable sales 2 and 3.

18. Respondent assigned an actual value of \$256,420.00 to Schedule No. 148324. Schedule No. 034006 has an assigned value of \$23,000.00 and Schedule No. 034159 has an assigned value of \$17,300.00.

19. Petitioner presented rebuttal testimony indicating that he was objecting to the Respondent's appraisal report. He requested that the Board reject Respondent's Exhibit 1 due to inaccuracies and because he believed that the appraiser had invalidated his own report. The Board noted Petitioner's objection.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the three subject properties were correctly valued for tax year 2002.
2. The Board was most persuaded by the Respondent's appraisal report, which provided

2. The Board was most persuaded by the Respondent's appraisal report, which provided a well-documented selection of comparable sales that adequately represents the subject properties. The value of the subject property must be determined using market sales from the appropriate time frame and making adjustments for differences between the comparable sales and the subject properties.

3. The Petitioner did not present adjustments to the comparable sales used in his presentation, but relied upon the assessed values assigned to the comparable properties by the Jefferson County Assessor's Office. The Board cannot consider the assessed values of other properties; it can only consider the sales prices with appropriate adjustments.

4. The Board believes that the Respondent took the unique design characteristics of the subject properties into consideration. The assigned values of the three properties were substantially lower than the values indicated by the sales comparison approach.

5. Respondent's assigned values of \$256,420.00 for Schedule No. 148324, \$23,000.00 for Schedule No. 034006, and \$17,300.00 for Schedule No. 034159 are affirmed.

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 2nd day of August, 2003.

This decision was put on the record

AUG 01 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

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BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

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Judee Nuechter

Judee Nuechter

