

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioners:

DERRILL C. & TERRI A. TARBUTTON,

v.

Respondent:

ADAMS COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioners:

Name: Derrill C. Tarbutton
Address: 2338 East 126th Loop
Thornton, Colorado 80241
Phone Number: (303) 452-3876

Docket Number: 41292

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 21, 2004, Judge Nuechter and Debra A. Baumbach presiding. Petitioners appeared pro se. Respondent was represented by Jennifer Wascak Leslie, Esq. Petitioners are protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2338 East 126th Loop
(Adams County Schedule No. 1573-36-2-03-019)**

The subject property is a 2,101 square foot frame and brick ranch style home built in 1999 with three bedrooms and two bathrooms.

ISSUES:

Petitioners:

Petitioners contend that the subject has been overvalued. Respondent's comparable sales are all located several miles away and are superior to the subject. The Respondent has not considered all of the deficiencies affecting the subject property.

Respondent:

Respondent contends that the subject property was valued correctly. Respondent's comparable sales are within the same market area as the subject and are similar in size, style, quality and market appeal. Adjustments have been made for all differences in physical characteristics.

FINDINGS OF FACT:

1. Mr. Derrill Tarbuton, Petitioner, presented the appeal on behalf of Petitioners.
2. Based on the market approach, Petitioner presented an indicated value of \$250,000.00.00 for the subject property.
3. Petitioners presented three comparable sales ranging in sales price from \$249,999.00 to \$269,900.00 and in size from 2,020 to 2,279 square feet. No adjustments were made to any of the sales.
4. Mr. Tarbuton testified that the Respondent had not considered the deficiencies affecting the subject. There is evidence of settlement along the rear of the house and under the back porch. Additionally, there is a defective I-beam in the basement and numerous cracks along the walls caused by water seepage through the basement flooring. As a result of the water damage and settlement, there is separation in the cement areas surrounding the home and the garage door does not work properly.
5. Mr. Tarbuton testified that the builder used inferior quality fixtures, flooring, countertops and furnace in the construction. Repairs have had to be made to the furnace and garage door. The vinyl flooring is separating from the edges and seams. The kitchen countertop has permanent stains resulting from the low quality grade used in construction of the dwelling.
6. Mr. Tarbuton testified that he tried to contact Builders Home Warranty Inc., the company responsible for the warranty work on the home. The company filed for bankruptcy in 2000, thus Petitioner was then responsible for the repairs.
7. Mr. Tarbuton testified that Respondent's comparable sales are located several miles away from the subject property. The comparable sales are located in a superior area with a higher

quality of construction. He does not believe that the Respondent considered sales located within the subject's neighborhood or that the appropriate adjustments were made for differences in physical characteristics.

8. Petitioners are requesting a 2003 actual value of \$250,000.00 for the subject property.

9. Respondent's witness, Mr. W. Troy Mousel, a Registered Appraiser with the Adams County Assessor's Office, presented an indicated value of \$288,000.00 for the subject property based on the market approach.

10. Respondent's witness presented three comparable sales ranging in sales price from \$257,000.00 to \$343,722.00 and in size from 1,544 to 2,118 square feet. After adjustments were made, the sales ranged from \$284,921.00 to \$346,935.00.

11. Mr. Mousel testified that the subject is located within the East Lake Subdivision. The subject is considered to be an average quality residence with 2,201 square feet of living area and a three-car garage. The subject has a loft area that was not originally reported to the Adams County Assessor's office. The value of the loft area is not reflected in the appraisal report. If the value of the loft area were included, the value of the subject property would be increased by approximately \$5,000.00.

12. Respondent's witness testified that he performed an exterior inspection of the subject on October 1, 2004. The homeowner would not allow access for an interior inspection. No adjustments were made for the degree of settlement that has occurred. The witness testified that settlement affecting the sidewalks, patios and garage is common in the area and that most of the homes share similar settlement influences. From the exterior inspection, no evidence of major structural problems was present.

13. Petitioner did not present any structural engineering reports to substantiate any structural damage that would affect the integrity of the structure.

14. Mr. Mousel testified that Respondent's comparable sales are considered to be from the same market area. One of the sales is from the subject's subdivision and the other two are located in a similar subdivision. Adjustments were made for all of the differences in physical characteristics. The final value estimate was correlated to the lower end of the value range.

15. Respondent assigned an actual value of \$288,000.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. The Board considered all of the comparable sales presented by both parties. The Board was convinced that Respondent's comparable sales were the most reliable. All of Respondent's sales were adjusted for differences in physical characteristics and required limited adjustments. Two of Respondent's comparable sales are located in a nearby neighborhood within the expanded market area. It is acceptable appraisal practice to expand the market area to find the most suitable sales for comparison and make the necessary adjustments.

3. No adjustments were made to any of Petitioners' comparable sales. As a test of reasonableness, the Board adjusted the Petitioners' sales using Respondent's adjustment calculations. The adjusted values of Petitioners' comparable sales support Respondent's value conclusion.

4. The Board has reviewed all photos and repair receipts with regard to the settlement issue and substandard amenities. From the evidence and testimony presented, the Board was not convinced that any further adjustments were warranted. No structural engineering reports were presented to indicate if the structural integrity is at risk. The receipts for repairs to the garage and furnace do not appear to be above normal maintenance items. The overall cost of the repairs does not appear to negatively affect the value or marketability of the subject property.

5. It would be advantageous for the Petitioners to obtain a structural engineering inspection. If the structural engineering report indicates any adverse factors, the Petitioners should provide the Adams County Assessor's office with a copy of the inspection report, along with cost estimates for repairs.

ORDER:

The petition is denied.

APPEAL:

Petitioners 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 24th day of January 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Judee Nuechter
Judee Nuechter

This decision was put on the record

JAN 24 2005

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

