

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BARBARA O'TOOLE,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Barbara O'Toole Address: P.O. Box 488 Basalt, Colorado 81621 Phone Number: (970) 927-4535</p>	<p>Docket Number: 41315</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 24, 2004, Rebecca Hawkins and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Debbie Farber, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**230 Curtis Lane, Basalt, Colorado
(Eagle County Schedule No. R025367)**

Petitioner is protesting the 2003 actual value of the subject property, a 35-year old mobile home on a 15,232 square foot site with a small access road, located in an older section of Basalt Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. It is an older mobile home with no city facilities, on an unpaved access road. Due to a sewer line that crosses the property, 45% of the site cannot be developed. The mobile home park is located between the towns of Basalt and Aspen. Lots sell for \$16,000.00 to \$39,000.00 for river frontage.

Respondent:

Respondent contends that, based on the sales comparison approach, the indicated value of the subject property is \$300,000.00. The indicated value supports the 2003 assigned value of \$186,380.00. The site has 15,232 square feet, 55% has flat topography. The location provides a view of the town of Basalt. The mobile home on the site is not part of this appeal.

FINDINGS OF FACT:

1. Ms. Barbara O'Toole, Petitioner, presented the appeal on her own behalf.
2. Petitioner presented an indicated value of \$140,000.00 for the subject property.
3. As shown in Petitioner's Exhibit C, Petitioner presented nine comparable sales; however, only six sold during the base period. The comparable sales ranged in price from \$118,000.00 to \$140,000.00 and in size from 6,103 to 8,748 square feet. All of the comparable sales are located off paved roads and some have views or underground utilities. No adjustments were made to the sales for differences in physical characteristics.
4. Ms. O'Toole testified that the sites on the hill above the subject are in a newer section and have paved roads. She believes that the subject site should not be compared to land in nice subdivisions with paved roads and underground utilities. The subject site is off an unpaved road and has a terrible entrance with a narrow driveway. The immediate neighborhood contains an auto repair shop and junk cars.
5. As shown in Petitioner's Exhibit B, Ms. O'Toole presented 18 land sales located in the Lazy Glen Mobile Home Park. The sales ranged in price from \$118,000.00 to \$140,000.00 and in size from 2,251 to 7,195 square feet. None of the land sales were adjusted for differences in physical characteristics.
6. Ms. O'Toole testified that the subject property has a sewer line running through the entire site. It services four other homes and takes away from the versatility of the subject site. The site is approximately 1/3 acre and 45% of it is a steep hill that prohibits any construction. She feels trailer site sales are more comparable to the subject property than sales of land in subdivisions.

These subdivisions have paved roads, superior views and underground utilities.

7. Under cross-examination, Ms. O'Toole explained that the subject property has two schedule numbers and that the mobile home can be moved. She believes that the subject site should be compared to sites in the mobile home park down the road. Those sites are more similar to the subject than the sites higher on the hill with paved roads.

8. Petitioner is requesting a 2003 actual value of \$140,000.00 for the subject property.

9. Respondent's witness, Mr. Lee Martens, a Certified Residential Appraiser with the Eagle County Assessor's Office, presented an indicated value of \$300,000.00 for the subject property based on the market approach.

10. Respondent's witness presented three comparable sales ranging in sales price from \$215,000.00 to \$320,000.00 and in size from 21,344 to 68,389 square feet. After adjustments were made, the sales ranged from \$230,000.00 to \$320,000.00. Two of the comparables sold within the base period and one sold prior to January 1, 2001.

11. Mr. Martens testified that Basalt is located southeast of Glenwood Springs and 10 to 15 miles from the Aspen/Snowmass ski resorts. Very few building sites are available in this area. He has inspected the subject property two or three times and did not consider the mobile home in the appraisal shown in Respondent's Exhibit 1. The appraised value reflects land only. He made an adjustment for the cost to remove the improvement and prepare the site for new construction.

12. Mr. Martens explained how he analyzed the placement of the utility easement and how it affected the site. He testified that the sewer line and set back requirement would not have a negative impact on a new building envelope. According to the building department, the subject site is level enough to allow new construction of a 5,000 square foot two-story home.

13. Mr. Martens testified that he found five vacant land sales that occurred in the subject neighborhood during the base period. The three sales used in Respondent's Exhibit 1 are the most similar to the subject. The other two sales required large adjustments but still supported the value range. All of the sales are close in proximity to the subject, within one-quarter mile.

14. Mr. Martens made adjustments for site preparation costs, driveway, leveling a building site and any slope stabilization. He interviewed contractors in the area and determined that the cost for site work would be \$15,000.00. As this site preparation work is not necessary on the subject property, the sales were given a positive adjustment. He also determined the cost of demolition from conversations with area contractors. He testified that sales indicate no adjustment is necessary for size differences of single-family sites. Each site is treated as a single building site regardless of size. Therefore, no size adjustments were made.

15. Mr. Martens reviewed Petitioner's Exhibit C and determined that the sales used are not located in a comparable neighborhood. He would not use those sales, as they are located in a different subdivision. He testified that Petitioner's sales are located in a planned unit development approximately 2.5 miles west of the subject. That location is in the middle of the valley floor with flat topography.

16. During cross-examination, Mr. Martens explained that the owner of Respondent's Sale 3 did not have to build a road as the 10-year old house was built next to an existing road. He feels his sales better represent the subject property as they are in the same neighborhood as the subject site.

17. Respondent assigned an actual value of \$186,380.00 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. Respondent submitted comparable sales that are located within .25 mile of the subject site. Sale 2 is closest in location and therefore has similar neighborhood influences. The Board believes Sales 2 and 3 are most similar to the subject site with the exception of size. The three sales are 6,112 to 53,157 square feet larger than the subject site. Mr. Martens testified that the market does not recognize value differences based on site size. The Board was not convinced that a 15,232 square foot site and a 68,389 square foot site would sell for the same price. Without analysis and support showing these sites to be so similar that a value difference would not be recognized in the market, the Board could give little weight to this testimony. If value differences based on size do exist, the Board was not provided with any evidence to support an adjustment.

3. Petitioner contends that a 5,000 square foot home could not legally be built on the subject property, although no evidence was presented to support this position. The Board empathizes with Petitioner and believes more evidence supporting a negative market reaction to the following conditions would have been helpful:

- Severe slope limiting the building area
- Unpaved shared access road
- Restrictions caused by sewer lines, also limiting the building area
- Condition of properties and mix of uses in the neighborhood

4. Petitioner's evidence and testimony did not persuade the Board that comparables sales should be limited to trailer park sites. The Board agrees with Respondent that any land in this general area is valuable; however, the Board concurs with Petitioner that the market may negatively view the condition of the property and the commercial use found in the subject neighborhood. These

factors may impact future construction with regard to improvement square footage, quality and value.

5. The Board was not convinced that Respondent's assigned value takes into consideration all of the negative factors affecting the subject site. However, the Petitioner did not present any evidence to prove that Respondent's sales were not comparable to the subject site. Without evidence to refute the similarity of Respondent's comparable sales to the subject property, the appraised value of \$300,000.00 more than adequately supports the assigned value.

6. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$186,380.00 for tax year 2003.

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 21st day of May, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Rebecca Hawkins
Rebecca A. Hawkins

This decision was put on the record

MAY 21 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

