

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GARY R. COLGAN,</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: Gary R. Colgan Address: 13731 Stuart Street Broomfield, Colorado 80020 Phone Number: (303) 466-9757</p>	<p>Docket Number: 41317</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 14, 2004, Rebecca A. Hawkins and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Tami Yellico, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**13731 Stuart Street
(Broomfield County Schedule No. R0014962)**

Petitioner is protesting the 2003 actual value of the subject property, a single-family ranch style home built in 1969 on a 48,352 square foot lot. The subject property has 1,710 square feet of living area, a 1,521 square foot unfinished basement and a three-car garage.

ISSUES:

Petitioner:

Petitioner contends that the subject property, located in Sunnyslope Estates, was recently annexed to Broomfield. The Respondent did not take into account the negative impact of the grade school that was built near his property in 1999.

Respondent:

Respondent contends that the 2003 actual value of the subject property is correct and supported by the market approach to value.

FINDINGS OF FACT:

1. Mr. Gary R. Colgan, Petitioner, presented the appeal on his own behalf.
2. Mr. Colgan testified that Broomfield's new 2,200 plus home subdivision surrounding unincorporated Adam's County necessitated a new grade school. The Petitioner contends that the school district did not inform him that Coyote Ridge Elementary would border the subject property.
3. Mr. Colgan testified that he works nights, and during the school's construction, he felt that he lost a year of his life. Now he loses between six hours to six days per month of work due to lack of sleep and disruptions caused by the public use of the school located behind the subject property.
4. Referring to Petitioner's Exhibit A, Mr. Colgan testified that his opinion of value for the subject property is \$200,000.00; the actual value placed on the subject property in 2001 plus the new garage. The Adams County Assessor lowered the 2001 valuation from \$248,830.00 to \$180,000.00 based on the school's impact on the subject property.
5. Petitioner testified that the Broomfield County Assessor compared the subject property to homes totally different than the subject. The comparable sales did not have negative impacts such as a grade school.
6. Mr. Colgan testified that "location, location, location" is the phrase realtors use to determine price as well as quality of living. He stated that the subject property would be worth more than the assessed value if it was not located 70 feet from the elevated two-story school. The school's elevated playground, tractor-trailers with back-up beepers coming in and out of the shipping docks, trash dumpster pick-up and commercial air-conditioning units generate noise.
7. In the past, Mr. Colgan testified, the back yard had been used for barbeques and entertaining, but with the noise from screaming kids until 11:00 pm, that is almost impossible.

8. Mr. Colgan testified in detail regarding how their lives have been disrupted by the addition of Coyote Ridge Elementary School. He has lived at the subject property for over 30 years.

9. Petitioner testified that he has met with school officials several times to discuss property values, prairie dogs, drainage, fencing and buffer zones and future deliveries. Adams 12 School District sent a letter to Petitioner dated December 22, 1998 discussing these concerns. Some of the concerns were met but many were not. He believes that the school district was not honest with him as to their plans. School plans changed; a two-story elevated school was built.

10. Mr. Colgan testified that the subject property consists of a little over 1,500 square feet with a 1,508 square foot unfinished basement.

11. Petitioner is requesting a 2003 actual value of \$200,000.00 for the subject property.

12. Mr. Jay Yamashita, a Licensed Appraiser with the Broomfield County Assessor's Office, testified that he prepared Respondent's Exhibit 1 and concluded to a \$325,900.00 value for the subject property. The Respondent's assigned value for the subject property for tax year 2003 was \$307,740.00.

13. Mr. Yamashita testified that the subject property is a 1,710 square foot single-family home with a 1,521 square foot unfinished basement located on a 48,352 square foot lot. The subject property is located in the Sunnyslope #2 subdivision in Broomfield. This subdivision has large lots ranging in size from one-half to almost two acres. He made a physical inspection on March 11, 2004 and measured the subject property. He stated that the measurements are outside measurements. The subject property was built in 1969 and is of average quality and condition.

14. Respondent's witness presented four comparable sales ranging in sales price from \$307,000.00 to \$389,900.00 and in size from 1,708 to 2,067 square feet. After adjustments were made, the sales ranged from \$306,273.00 to \$341,970.00.

15. Mr. Yamashita testified that he made a 5% adjustment to all but one of the comparable sales to reflect the impact the school has on the subject property. No sales in close proximity of the school occurred during the base period.

16. Under cross-examination, Mr. Yamashita testified that the comparable sales did not have the noise impact of the subject property. None of the comparable sales were within the subject subdivision. He believes that a 5% adjustment for the impact of the school was fair.

17. Mr. Yamashita testified that all lots within the Sunnyslope Subdivision are valued the same.

18. On questions from the Board, Mr. Yamashita testified that he was not aware if the subject property had been updated or remodeled since he was not allowed access to the interior of the property.

19. Respondent assigned an actual value of \$307,740.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2003.
2. The Petitioner went into great detail regarding the impact of building Coyote Elementary School within 70 feet of the subject property. The Board agrees with Petitioner that the influence of Coyote Ridge Elementary School has an impact on the value of the subject property.
3. It is difficult for the Respondent to adequately adjust for the impact of the school given that no sales located within close proximity to the school occurred during the base period. However, the Board believes that Respondent's Comparable Sale 3 should have been adjusted 5% to reflect the impact the school has on the subject property. The adjusted values of the comparable sales would then range from \$290,773.00 to \$341,970.00.
4. The Board believes that, in the absence of sales with the same direct impact of the school, the actual value of the subject property should be on the low end of the range.
5. It is standard appraisal practice to determine square footage based on exterior measurements. The Board believes Respondent's square footage measurement is correct.
6. After careful consideration of all of the evidence and testimony presented, the Board concluded that that the 2003 actual value of the subject property should be reduced to \$290,773.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$290,773.00 for tax year 2003.

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 ____ day of April, 2003.

DATED and MAILED this 28th day of April, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins
Rebecca A. Hawkins

Diane M. DeVries
Diane M. DeVries

This decision was put on the record

APR 27 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

