

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GARY P. MORIN,</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 P. Morin Address: 14030 Cortez Court Broomfield, Colorado 80020 Phone Number: (303) 465-3031</p>	<p>Docket Number: 41343</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 6, 2004, Judge Nuechter and Rebecca Hawkins presiding. Petitioner appeared pro se. Respondent was represented by Tami Yellico, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**14030 Cortez Court, Broomfield, Colorado
(Broomfield County Schedule No. R1118455)**

Petitioner is protesting the 2003 actual value of the subject property, a two-story single-family home built in 1997 with 2,846 square feet and a partially finished basement containing 1,536 square feet. The subject property is located in Country Estates.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued due to an inaccurate valuation method. The Appraiser used sales that were not comparable to the subject property and sufficient consideration was not given to the differences in quality and upgrades, as well as roof and foundation issues.

Respondent:

Respondent contends that the subject property has been properly valued based on the sales comparison approach.

FINDINGS OF FACT:

1. Mr. Gary Morin, Petitioner, presented the appeal on his own behalf. Based on the market approach, Petitioner presented an indicated value of \$445,000.00 for the subject property.

2. Petitioner presented three comparable sales ranging in sales price from \$412,800.00 to \$533,000.00 and in size from 2,706 to 3,398 square feet. After adjustments were made, the sales ranged from \$401,716.00 to \$492,170.00.

3. As shown on page 3 of Petitioner's Exhibit A, Mr. Morin presented a sales comparison grid showing sales that he believes more accurately reflect the value of the subject property. He used formulas and adjustments provided by the Broomfield County Assessor's office and made adjustments for differences in physical characteristics. He used a 6% per year positive time adjustment that was based on the articles in Petitioner's Exhibit A, Pages 5 and 6.

4. Comparable Sale 1 is slightly older in year of construction, similar in style, quality, size, bedroom and bath count. It is inferior in basement finish, and superior in walkout basement feature, condition, lot size, lot type and view. Comparable Sale 2 is slightly older in year of construction, similar in style, quality, site size and view. It is larger in square footage, basement size and finish and superior in condition and lot type. Comparable Sale 3 is also slightly older in year of construction, similar in style, bedroom and bath count, basement size and finish. It is superior in square footage, condition and lot type.

5. Petitioner's Exhibit A, Page 2 shows the plat map with Lots 19, 20, 21, 22, 23, 24, and 25, all in Block 1. These lots have a clear northwest exposure with views superior to the subject property. Respondent's Comparable Sale 1 is one of these superior sites, a custom home, superior in quality and amenities. Mr. Morin testified that the fact that Comparable Sale 1 is across the street from the subject property means nothing. The sites at the end of this cul-de-sac contain high priced homes with superior amenities not found in a typical home in this neighborhood. Some of the superior features include more exterior brick, wrap around decks with lighting, upgraded

architectural features and spiral staircases.

6. Petitioner testified that the subject property was not custom built and the site was purchased for speculation. The dwelling is more similar to homes in the older filing than homes on the subject block that are in a newer filing. The homes in the older filing have fewer options and upgrades than homes in the newer filing, which are superior in quality and upgrades. Lots 8, 14 and 17 on Block 1 are the same model as the subject and were built by the same builder.

7. Mr. Morin believes a major factor affecting the value of the subject is the sub-standard roof. The roof was supplied from a now bankrupt company. Page 27 of Petitioner's Exhibit A is a Roof Inspection and Estimate Report prepared by Colorado Roofs & Repairs. The report indicates that the roof is failing and will continue to fail. To replace the roof with a product comparable to other homes in the neighborhood would cost between \$7,000.00 and \$12,000.00, depending on the warranty. Mr. Morin has knowledge of a home in the neighborhood with the same type roof as the subject dwelling. The owner was required to replace the roof in order to sell the property.

8. Another negative factor affecting the value of the subject property is the foundation. It is shifting and Petitioner has had problems with backfill compaction. Settlement has caused the drywall to crack and Mr. Morin believes the foundation will continue to shift. Petitioner's Exhibit A contains invoices for repair work for backfill and settlement problems. He believes a buyer would require a price reduction of at least \$10,000.00 for the settlement problems.

9. The wind negatively affects the subject property as well. The overhead garage door has been repaired three times due to the cracked and torn metal. He has replaced panels and added metal struts. The garage door problems began in 1998 or 1999 due to high velocity winds. Mr. Morin testified that it would cost between \$1,000.00 and \$1,100.00 to replace the garage door.

10. Upon cross-examination and questions from the Board, Mr. Morin testified that he did not allow the Respondent interior access for appraisal purposes. He explained that page 8 of Petitioner's Exhibit A provides a comparison of assessed values, not sale prices. He confirmed that the roof was bad during the base period and only his builder used this type roof.

11. Petitioner is requesting a 2003 actual value of \$445,000.00 for the subject property.

12. Respondent's witness, Mr. Jay Yamashita, a Licensed Appraiser with the Broomfield County Assessor's Office, presented an indicated value of \$618,500.00 for the subject property based on the market approach.

13. Respondent's witness presented three comparable sales ranging in sales price from \$546,100.00 to \$875,000.00 and in size from 3,245 to 3,602 square feet. After adjustments were made, the sales ranged from \$580,565.00 to \$676,814.00.

14. Mr. Yamashita explained that the subject neighborhood contains semi-custom to custom homes. Comparable Sales 1 and 2 in Respondent's Exhibit 1 are all within Filing 4 as is the subject property, and Comparable Sale 3 is located in Filing 6. All three comparable sales are located within one-half mile of the subject property and are 2-story models, similar to the subject in year of construction but larger in square footage. Comparable Sale 1 was adjusted -10% for the superior view and -10% for quality. Comparable Sale 2 is on the same side of the street as the subject property, two houses away. It was adjusted +10% for inferior quality. Comparable Sale 3 was also inferior in quality and given a +10% adjustment. Most weight was given Comparable Sale 2; it is on the same side of the street as the subject site and has similar views.

15. Mr. Yamashita explained that the sales grid in Petitioner's Exhibit A contains sales located in a different filing than the subject property. The comparable sales are all older than the subject and are not as comparable. He also stated that an engineer's report and/or costs-to-cure addressing roof replacement, backfill and/or settlement problems during the base period were not provided to the Assessor's Office. Mr. Yamashita testified that even if he were able to subtract costs-to-cure for the above-mentioned problems, the final value conclusion would still support the value presented by the Respondent. He maintains the roof is not a problem as it is still functioning properly and has not been replaced. He also believes hairline cracks in the roof would not affect the value conclusion.

16. Under cross-examination, Mr. Yamashita explained that his view adjustment was based on market studies. When asked about a potential buyer considering both the subject property and Respondent's Comparable Sale 1, he replied that both properties would be competing. He considers Respondent's Comparable Sales 1, 2 and 3 comparable to the subject property after adjustments for differences in physical characteristics were applied. He considered similar age and design when choosing the comparables. While Comparable Sale 3 is substantially larger than the subject, a reasonable adjustment was made for the difference in size. The condition and quality ratings are reflective of both the interior and exterior of the property; however, he did not complete interior physical inspections of any sales.

17. When questioned about walkout basements, Mr. Yamashita explained that the Broomfield County Assessor's office does not have information regarding which properties have walkout basements. For that reason, he did not make any walkout basement adjustments. He categorized the subject property and Comparable Sales 2 and 3 as semi-custom homes and Comparable Sale 1 was categorized as a custom home. Mr. Yamashita explained that since he could not do an interior inspection of the subject property, he assumed it was a semi-custom home. Mr. Yamashita described Country Estates Filing 2 as an older section of the development built in 1993 and 1994.

18. Upon questions from the Board, Mr. Yamashita stated his adjustment for a walkout basement would be \$5,000.00 to \$15,000.00.

19. Respondent assigned an actual value of \$565,200.00 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. While the Board appreciated the valuation comparison presented on page 8 of Petitioner's Exhibit A, the Board could give little weight to the indicated values. In Colorado, residential property must be valued based on the market approach; therefore, only comparable sales may be considered.

3. The Board considered the comparable sales presented on page 3 of Petitioner's Exhibit A; however, the Board was most persuaded by Respondent's comparable sales.

4. The Board was convinced that Respondent's Comparable Sale 1 is a custom built dwelling, superior to the subject property in quality and mountain view. It is least similar to the subject property, requiring too many adjustments that resulted in a high net adjustment. The Board did not give weight to this sale, but gave most weight to Respondent's Comparable Sales 2 and 3.

5. The Board was influenced by Petitioner's testimony regarding the quality of construction of Respondent's Comparable Sales 2 and 3 as compared to the subject property. The Board is satisfied that the positive adjustments for quality applied by Respondent's witness were unnecessary. The Board recalculated Respondent's comparable sales grid by removing the positive quality adjustments on Comparable Sales 2 and 3. The resultant range of value, \$525,954.00 to \$544,732.00, indicated that a reduction in the subject property value was warranted.

6. The Board could give little weight to Petitioner's argument regarding the foundation, backfill, roof and wind problems affecting the value of the subject property. This testimony cannot be used to support Petitioner's value, as no factual evidence was presented to support that these conditions existed during the base period of January 1, 2001 through June 30, 2002.

7. After careful consideration of all of the evidence and testimony presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$530,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$530,000.00.

The Broomfield County Assessor is directed to change his/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

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 28th day of July 2004.

BOARD OF ASSESSMENT APPEALS



Judée Nuechter

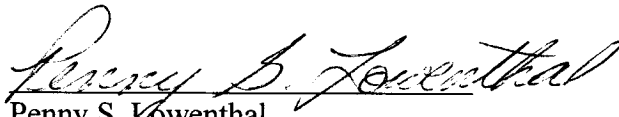


Rebecca A. Hawkins

This decision was put on the record

JUL 28 2004

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Penny S. Lowenthal

