

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioners:

**DAVID ALLEN DIAMOND AND ANNE SCHWEBEL
DIAMOND REVOCABLE TRUSTS,**

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

Attorney or Party Without Attorney for the Petitioner:

Docket Number: 41553

Name: David Allen Diamond
Address: 4207 S. Hudson Parkway
Englewood, Colorado 80110
Phone Number: (303) 639-9455

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 10, 2005 and April 13, 2005, Diane M. DeVries and Karen E. Hart presiding. Petitioners appeared pro se. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4207 S. Hudson Parkway, Englewood, Colorado
(Arapahoe County Schedule No. 2075-06-4-15-033)**

The subject property consists of a one-story, remodeled residential dwelling that is 6,051 square feet in size located on a 0.868-acre site in Cherry Hills Village, Colorado.

ISSUES:

Petitioners:

Petitioners contend that Respondent overvalued the subject property. Respondent used sales that are not from comparable neighborhoods within Cherry Hills Village.

Respondent:

Respondent contends that the subject property was properly valued using the market approach to value. Cherry Hills Village is one economic unit and sales were used from other subdivisions within Cherry Hills Village due to the size of the subject.

FINDINGS OF FACT:

1. Mr. David Diamond presented the appeal on behalf of Petitioners.
2. Mr. Diamond testified that his house was built in 1964 and does not have a basement, which is why his workshop and playroom are on the first floor rather than in the basement. The house was remodeled starting in 1999; it is not a new house. He admits that the house is larger than usual for his immediate neighborhood.
3. Mr. Diamond testified that Respondent incorrectly used the entire area of Cherry Hills Village for comparables. He believes that a neighborhood analysis is critical, as quoted in Petitioners' Exhibit 6, excerpts from *Appraising Residences & Income Properties by Henry S. Harrison*. Respondent's comparables are located in different neighborhoods than the subject. Two of Respondent's comparables are new properties that are located in a new development area. The remaining comparables are from other areas of Cherry Hills Village and not the subject neighborhood. The Covington development is new, first selling lots in 1999. Buell Mansion is a gated neighborhood. Cherry Hills Farm has a guarded entry. Respondent's comparables are from the most expensive areas of Cherry Hills, whereas his house is in the entry-level area of the development. His annual dues are \$250.00; Covington's dues are \$900.00, Cherry Hills Farm dues are \$3,000.00, and Buell Mansion dues are \$4,860.00.
4. Mr. Diamond testified that Petitioners' Exhibit P-1 shows sales by neighborhood for the appropriate time period. The average price in Cherry Hills Farm is \$1,733,000.00. The average price in his subdivision, Cherry Hills East, is \$788,000.00 and the average price in Cherry Hills North is \$705,000.00. Petitioners' Exhibits P5a through P5e are photographs depicting the differences in neighborhood building characteristics. He accepts that his house is larger than others in his neighborhood but it is not significantly larger in value.

5. Petitioners' witness, Becky L. Krone, SRA and a Certified Residential Appraiser, presented an indicated value of \$1,100,000.00 for the subject property based on the market approach.

6. Petitioners' witness presented six comparable sales ranging in sales price from \$685,000.00 to \$1,490,000.00 and in size from 2,950 to 5,395 square feet. After adjustments were made, the sales ranged from \$887,600.00 to \$1,197,100.00.

7. Ms. Krone testified that there are exclusive areas in Cherry Hills; comparables must come from within the appropriate neighborhood, or location adjustments must be made to use sales from outside the neighborhood. Three of her comparables are located in the immediate neighborhood of the subject; three are outside of the immediate neighborhood. Cherry Hills Farm, Buell Mansion, and Covington are not comparable to the subject neighborhood. The subject is overbuilt for its neighborhood.

8. Regarding Respondent's appraisal, Ms. Krone testified that the differences are in neighborhood location, basement finish, and total finished area square footage. Cherry Hills Farm purchasers would not live in Cherry Hills East due to the neighborhood make-up. Comparables 3, 4, and 6 are in the marketing neighborhood. Cherry Hills Farm is an elite neighborhood.

9. Ms. Krone testified that the basement finish adjustment used in the Respondent's appraisal is not large enough. Basements in recently constructed houses are finished and are recognized by the market as living space similar to above-grade finish areas. She knows the subject house had extensive renovation, though she did not see the house prior to its purchase by Mr. Diamond. Her Comparable Sale 1 was renovated in 2001 to the same quality as the subject and Comparable Sale 5 was renovated in 2002 to similar quality as the subject.

10. Petitioners are requesting a 2003 actual value of \$1,000,000.00 for the subject property.

11. Respondent's witness, Mr. Gary Mycock, a Registered Appraiser with the Arapahoe County Assessor's Office, presented an indicated value of \$1,475,000.00 for the subject property based on the market approach.

12. Mr. Mycock testified that Mr. Diamond purchased the subject in August 1999. The house was originally 3,742 square feet and now is 6,013 square feet. Mr. Mycock physically inspected the property on March 10, 2005. There is a residential workshop that has less finish than the main house. Arapahoe County corrected their records to remove the workshop square footage from the living area finished square footage of the subject dwelling. No adjustment was made for the water damage shown on page 39D of Respondent's Exhibit B as no cost to cure was furnished. The subject property is located in Cherry Hills East and is a custom-built home with excellent fit and finish.

13. Respondent's witness presented five comparable sales ranging in sales price from \$1,450,000.00 to \$2,000,000.00 and in size from 4,878 to 5,893 square feet. After adjustments were made, the sales ranged from \$1,347,347.00 to \$1,819,359.00.

14. Mr. Mycock testified that he reviewed 90 sales. It is difficult to find comparable sales of similar size and finish as the subject. Only four sales occurred within the immediate neighborhood and the largest home was 3,502 square feet. He believes adjustments would have been too large to use these sales. Mr. Mycock testified that he tried to keep adjustments to 10%.

15. Regarding Petitioners' appraisal, Mr. Mycock disagreed with the site adjustment. He testified that, although there are size and view differences within sites, the Arapahoe County Assessor views a "lot as a lot and a site as a site." Petitioner's size adjustments are too large at \$100,000.00 for such slight differences in site size. Cherry Hills is one economic unit, even though there are higher and lower priced homes; it is about seven square miles in size.

16. Mr. Mycock testified that they spot-checked the measurements when they inspected the subject property. The inspection resulted in a downward adjustment due to the workshop's inferior finish. Petitioners used 6,051 square feet and he used 5,676 square feet after adjusting for the shop area. He time adjusted his sales and Petitioners' witness did not, though he admits that Petitioners' sales occurred close to the end of the base period.

17. Respondent assigned an actual value of \$1,418,000.00 to the subject property for tax year 2003.

CONCLUSIONS:

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

2. Both parties had expert witnesses that presented well-prepared appraisal reports. The Board recognizes the difficulty in valuing the subject property, as it is a large house of newer construction located in an older neighborhood.

3. Respondent was most concerned with the size of the subject dwelling and therefore used sales from newer neighborhoods, as there was a lack of similarly sized houses in the subject property's neighborhood. Petitioners' witness used sales of smaller homes and made large adjustments due to size, testifying that the neighborhood location was more controlling in the valuation of the subject than the dwelling size.

4. The Board was not convinced that Respondent's sales were from comparable neighborhoods, based on evidence presented including development sales prices and expert witness testimony. The Board believes that neighborhood is a critical consideration and therefore relied on Petitioners' expert testimony and evidence as to the value of the subject property.

5. After considering all of the evidence and testimony presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$1,100,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$1,100,000.00.

The Arapahoe County Assessor is directed to change his/her records accordingly.

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 12th day of May 2005.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

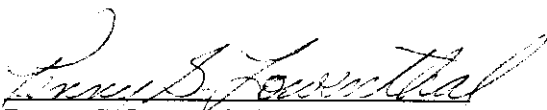


Karen E. Hart

This decision was put on the record

MAY 11 2005

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



Penny S. Lowenthal

