

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EDNA THOMECZEK,</p> <p>v.</p> <p>Respondent:</p> <p>BENT COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Judy Thomeczek Address: P.O. Box 387 Las Animas, Colorado 81054 Phone Number: (719) 456-1296</p>	<p>Docket Number: 41611</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 15, 2004, Judee Nuechter and MaryKay Kelley presiding. Petitioner was represented by her daughter-in-law, Judy Thomeczek. Respondent was represented by Mark A. MacDonnell, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1038 Fifth Street, Las Animas, Colorado
(Bent County Schedule No. 1011890)**

Petitioner is protesting the 2003 actual value of the subject property, a 1½ story stucco house built in 1910 with 1,288 square feet and a partially finished 573 square foot basement.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued for tax year 2003, as Respondent did not consider the subject's physical deficiencies and lack of remodeling.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003.

FINDINGS OF FACT:

1. Judy Thomeczek presented the appeal on behalf of her mother-in-law, Edna Thomeczek. She testified that the subject roof has been repaired and the plumbing has been updated. Deficiencies include structural cracks, flood-related water damage in the basement, older kitchen and bath, and older heating and electrical systems.

2. Ms. Thomeczek presented three ranch-style comparable sales selected for their lack of updating and remodeling. She referred to Respondent's Exhibit 7, which displayed them in the same format as the Assessor's comparables. The sales ranged in price from \$21,000.00 to \$26,000.00 and in size from 616 to 1,096 square feet. No adjustments were made to Petitioner's sales. The Bent County Assessor's assigned values are shown for each, ranging from \$17,676.00 to \$37,891.00.

3. Ms. Thomeczek testified that the Respondent's comparables shown in Exhibit 6 should not have been considered for comparison because they, unlike the subject, had been remodeled. She did not provide any information or detail about the remodeling.

4. Petitioner is requesting a 2003 actual value of \$28,000.00 for the subject property based on the assigned values of Petitioner's comparable sales.

5. Respondent's witness, Guy Fletcher Wagner, a Certified Residential Appraiser with the Bent County Assessor's Office, testified that although flooding is not uncommon in the area and many homes have water damage and settlement, he saw no evidence of water damage in the subject's basement. He saw no indication of remodeling but reported that the dwelling was well maintained.

6. Mr. Wagner selected three 1½ story comparable sales because of similarity in style, size, and age. They ranged in sales price from \$68,500.00 to \$79,000.00 and in size from 1,334 to 2,182 square feet. No adjustments were made to Respondent's sales. The Bent County Assessor's assigned values were presented, ranging from \$51,618.00 to \$78,999.00. He testified that all three had electrical and plumbing updating.

7. Mr. Wagner testified that Petitioner's comparable sales were not acceptable because the relationship of the footprint to the lot sizes were different than the subject's, because they were not 1½ story houses, because their gross living areas were considerably different, and because none had basements.

8. Mr. Wagner testified that he did not prepare a market grid of Respondent's comparable sales showing adjustments, and he was unable to verbally provide adjustments for any line items.

9. Respondent assigned an actual value of \$38,556.00 to the subject property for tax year 2003 based on the assigned values of Respondent's comparable sales.

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 was convinced that the subject property has had minimal updating and no remodeling. Petitioner's sales were more similar to the subject in their lack of remodeling. After adjusting Petitioner's sales for gross living area, basement size and finish, and garage size, Petitioner's sales ranged in price from \$38,000.00 to \$40,000.00. Respondent's sales were more similar to the subject in style, size, and age, and similar adjustments resulted in a considerably higher range, presumably reflecting remodeling.

3. The Board would have benefited from more detail about the interior of all comparable sales, as well as adjustments to comparable sales. The Board heard conflicting testimony from both parties about updating, remodeling, and condition of comparable sales, and lack of evidence regarding these terms prevented a thorough analysis.

4. The value of residential properties must be based on the market approach. Comparing assessed values, whether land, improvements, or both, is not an acceptable method of establishing market value either in commonly recognized appraisal practice or in state statute.

5. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$38,556.00.

ORDER:

The petition is denied.

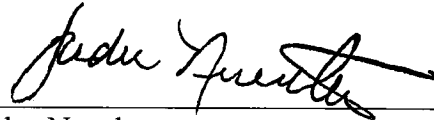
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

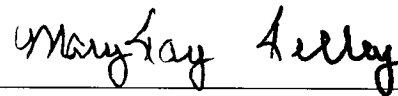
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 2nd day of November 2004.

BOARD OF ASSESSMENT APPEALS



Judee Nuechter

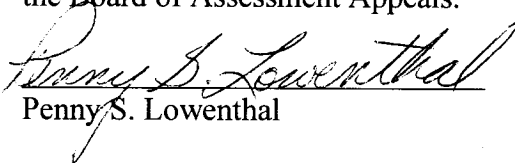


MaryKay Kelley

This decision was put on the record

NOV 01 2004

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



Penny S. Lowenthal

