

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL L. BLITSTEIN,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Michael L. Blitstein Address: 36570 Highway 24 N Buena Vista, Colorado 81211 Phone Number: (719) 395-2878</p>	<p>Docket Number: 41614</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 17, 2004, Steffen A. Brown and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Jennifer A. Davis, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**36570 Highway 24 N, Buena Vista, Colorado
Chaffee County Schedule No. R316303400118**

Petitioner is protesting the 2003 actual value of the subject property, a 6,748 square foot home built in 1993 on 313.29 acres with a walkout basement, 6,408 square feet of garage area, decking, and a 2,337 square foot guest house.

ISSUES:

Petitioner:

Petitioner contends that the subject residential improvements were overvalued for tax year 2003, that the subject has physical and functional problems not addressed in Respondent's report and that Respondent's comparable sales are superior to the subject and not reflective of value. Petitioner is not disputing the values assigned to the land or outbuildings.

Respondent:

Respondent contends that the subject residential improvements have been valued correctly based on the market comparison approach.

FINDINGS OF FACT:

1. Michael L. Blitstein, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$850,000.00 for the subject residential improvements.
3. Petitioner presented four comparable sales ranging in sales price from \$565,000.00 to \$753,524.00 and in size from 2,564 to 3,781 square feet. After adjustments were made, the sales ranged from \$701,590.00 to \$902,429.00.
4. Mr. Blitstein testified that his Comparable Sales 1 and 4 were the same as Respondent's Comparable Sales 2 and 4 and that information pertaining to Petitioner's Comparable Sales 2 and 3 was secured from appraisers in the area. Adjustments were based on conversations with area builders and appraisers. He subtracted land from all comparable sales and made adjustments for differences in age, size and room count, basements, garages, and fireplaces. He did not adjust for time trending or the guesthouse.
5. Mr. Blitstein testified that construction on the house was not complete when he purchased it and that the elevator, electric system, heating system, phone system, security system, and theatre wiring still do not work consistently. He testified on cross-examination that, despite excellent quality materials overall, a mining theme is prevalent and primary living space is on the upper most level. The exterior is sided with cedar and corrugated steel.
6. Mr. Blitstein testified that Respondent's Sale 1 was not an arms-length transaction in that a 98% loan was made at zero percent interest and that no adjustment was made for special financing. The actual value of Respondent's Sale 1 was \$347,254.00 or \$91 per square foot, which calculates to an actual value for the subject of \$614,068.00. Water rights for Respondent's Sale 1 were not considered. Sale 3 was not adjusted to reflect the presence of a swimming pool, which

would cost between \$100,000.00 to \$200,000.00 to install. The subject residential improvements are larger than all of Respondent's sales and a \$50 per square foot adjustment for above grade living area was too high compared with area builders' and appraisers' estimates of \$25 to \$35 per square foot. He testified that Respondent's Sale 1 should be discarded and that Sale 4 was most representative of the subject residential improvements due to its size and proximity, although he disagreed with Respondent's adjustments.

7. Petitioner is requesting a 2003 actual value of \$850,000.00 for the subject residential improvements based on his comparable sales.

8. Respondent's witness, Mari P. Moore, a Registered Appraiser with the Chaffee County Assessor's Office, presented an indicated value of \$1,431,371.00 for the subject residential improvements based on the market approach. The land, valued as agricultural, and the agricultural improvements were not included in value.

9. Respondent's witness presented four comparable sales ranging in sales price from \$570,000.00 to \$2,635,050.00 and in size from 3,341 to 3,874 square feet. After adjustments were made, the sales ranged from \$1,030,071.00 to \$2,584,325.00. Ms. Moore was refused access to the subject property.

10. Ms. Moore testified regarding the adjustments for time trending, location, construction quality, age and condition, room count and size, garages, and guesthouses. She subtracted land value and outbuildings for all comparable sales. She made no adjustments for Petitioner's reported proximity to a water pump station, high tension wires, and power switching station, saying she did not note any detrimental influences from the access road, was not granted access to the site, and had no evidence that they detracted from value. She was not aware of the presence of a theatre or dual appliances so made no corresponding adjustments. She made no adjustment for air conditioning, saying it was unnecessary, atypical for the area, and carried no additional value. She made no adjustment for Petitioner-reported water rights for Respondent's Sale 1, as water is separately deeded and not valued along with the real estate. She admitted that the subject residential improvement was considerably larger than all comparable sales but could not locate sales of larger homes.

11. Ms. Moore testified, in response to Petitioner's statement regarding special financing for Respondent's Sale 1, that the February 2002 transfer from Martin Miler to Highland Properties was an arms-length transaction and was used in the report but that the June 2002 transfer from Highland Properties to John and Sharon Beacham was not arms-length and is not reported in the appraisal.

12. Ms. Moore testified that she did not consider Petitioner's Sales 2 and 3 for comparison because of their small five-acre sites and because the 2,564 square foot house reflected in Petitioner's Sale 3 is much smaller than the subject residential improvements and the other sales.

13. Respondent assigned an actual residential improvement value of \$1,431,371.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject residential improvements were incorrectly valued for tax year 2003.

2. The Board concluded that the Respondent's evidence and testimony was more convincing but that excessive square footage and related functional obsolescence was not adequately addressed in the market approach. The subject house is considerably larger than any of the comparable sales, atypical for homes in the area, and did not provide additional utility. The garage, finished and heated, far exceeds both size and quality of typical garages in the area and would appeal to a very limited segment of the marketplace. Although size adjustments were made in the market approach, the Board was not convinced that the issue of super adequacy, as defined in standard appraisal practice, was addressed and applied. The Board estimates, without benefit of more detailed interior information, that market impact for super adequacy would be at least 15% to 20%

3. For the sake of clarification, the Board will address several items that arose in the course of Petitioner's testimony:

- a. Comparing the assessed value of Respondent's Sale 1 to the subject is not an acceptable method of establishing market value either in commonly recognized appraisal practice or in the Division of Property Taxation Assessor's Reference Library guidelines.
- b. The Board was not convinced that the swimming pool in Respondent's Sale 3 contributes to value and that an adjustment, if made, should have reflected market reaction rather than cost new, which does not always equate to value.
- c. Petitioner's market approach did not include the guesthouse, which likely has a significant impact on value and subsequently resulted in Petitioner's considerably lower estimate of market value.
- d. The Board agrees with Respondent that the 5-acre lots of Petitioner's Sales 2 and 3 are not representative of the subject's 313.29 acres. Although land is not included in the improvement value at issue, it retains some impact on the improvements and the marketability of the property as a whole.

4. 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 as follows:

Residential Improvements	
On Agricultural Land	\$1,200,000.00
Agricultural Improvements	\$ 19,530.00
Meadow Agricultural	<u>\$ 70,528.00</u>
Total	\$1,290,058.00

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$1,290,058.00.

The Chaffee County Assessor is directed to change his records accordingly.

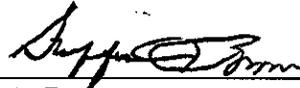
APPEAL:

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

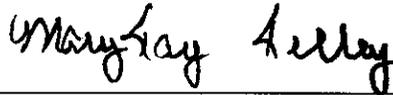
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 15th day of June, 2004.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

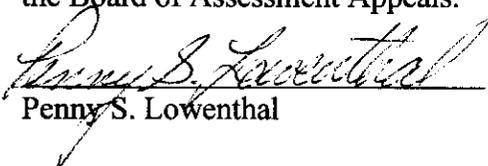


MaryKay Kelley

This decision was put on the record

JUN 14 2004

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


Penny S. Lowenthal