

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ILENE BRYCE,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Allen Bryce Address: 13867 Lexington Place Westminster, Colorado 80020 Phone Number: (303) 474-0591</p>	<p>Docket Number: 41940</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 7, 2003, Karen E. Hart and Rebecca Hawkins presiding. Petitioner was represented by her husband, Mr. Allen Bryce. Respondent was represented by Jennifer Wascak Leslie, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**13867 Lexington Place, Westminster, Colorado
(Adams County Schedule No. 0157321007005)**

Petitioner is protesting the 2003 actual value of the subject property, a ranch style single-family residence, located in the Lexington development. The home has a one-acre site and backs to vacant land. It was built in 2001 and has 3,368 square feet on the main floor, approximately 2,000 square feet in the basement and an oversized garage.

ISSUES:

Petitioner:

Petitioner contends that the comparables used by Respondent were from a superior section of the development. Petitioner believes homes in the upscale section of Lexington Shores sell for a higher price range than the subject neighborhood. As a result of using these sales, Petitioner contends that Respondent overvalued the subject property.

Respondent:

Respondent contends that they used the best comparable sales available. The two neighborhoods have similarities including proximity and desirability, and the value has ample support.

FINDINGS OF FACT:

1. Mr. Allen Bryce, Petitioner's husband, presented the appeal on behalf of Petitioner.
2. Petitioner presented an indicated value of \$625,000.00 for the subject property. A market approach was not presented.
3. Petitioner presented six Property Profile Account Summaries obtained from the Adams County website. It was later determined that this information reflected the actual values assigned to the properties by Adams County's rather than sale prices. The actual values of the six properties ranged from \$581,540.00 to \$688,160.00 and in size from 2,782 to 4,243 square feet. No adjustments were made and no comparable sales were presented.
4. Mr. Bryce testified that the price range for the subject neighborhood is \$450,000.00 to \$700,000.00. He believes Lexington Shores is the more upscale neighborhood, with values ranging from \$799,000.00 to \$1,350,000.00. There are differences in roof types (asphalt shingle versus concrete tile), square footage, quality and site values. Mr. Bryce testified that site values in the subject neighborhood are approximately \$120,000.00 compared to \$160,000.00 used by Respondent.
5. Under cross-examination, Mr. Bryce testified that the list of properties he presented are current listings and recent sales that did not occur during the base period. He also explained that the appraisal report included in Petitioner's Exhibit A was prepared in December 2000 for the tax year 1999.
6. After further cross-examination, Mr. Bryce testified that the subject site is one of the premium sites in the neighborhood and backs to vacant land. Premium sites range in size from 0.75 to 3.0 acres and the subject site is close to 1.0 acre. He explained that the vacant land behind the subject site would be developed with homes in the future.

7. Upon questions from the Board, Mr. Bryce testified that the Property Profile Account Summaries he presented were obtained from the Adams County website. He feels that 14142 Lexington Circle is the most similar to the subject property in site size, but is larger in square footage and has a swimming pool. This property sold during the base period. He believes that the property at 904 West 140th Drive is similar to the subject in square footage, number of bedrooms and site size.

8. After further questioning from the Board, Mr. Bryce indicated that he used cost per square foot, as well as sales prices of homes in his neighborhood, to arrive at his value. The contractor's agreement contained in Petitioner's Exhibit A shows that the fixed purchase price for all labor and materials provided by Contractor or any other costs of construction shall be \$389,412.00 subject to any change orders. Petitioner testified that the final cost of construction totaled \$412,000.00 or \$122.00 per square foot and that the site value was \$160,000.00. Mr. Bryce believes Respondent compared his home at \$122.00 per square foot to homes from \$234.00 to \$241.00 per square foot.

9. Petitioner is requesting a 2003 actual value of \$625,000.00 for the subject property.

10. Respondent's witness, Mr. Nic Mailo, an appraiser with the Adams County Assessor's Office, presented an indicated value of \$780,000.00 for the subject property, based on the market approach.

11. Respondent's witness presented three comparable sales ranging in sales price from \$855,000.00 to \$943,000.00 and in size from 3,798 to 4,243 square feet. After adjustments were made, the sales ranged from \$780,488.00 to \$852,838.00.

12. Mr. Mailo testified that the Lexington Shores subdivision is very nice and more upscale than the subject neighborhood. When the Lexington neighborhood was almost complete, the builder started development on the adjacent Lexington Shores. Mr. Mailo also testified that homes in Lexington Shores are newer with all brick exteriors and are located on at least one-acre sites.

13. Mr. Mailo testified that he chose to use these comparable sales because they have exterior site locations, i.e. they back to vacant land. He addressed why he used sales from Lexington Shores even though they were not comparable to the subject in quality and design. Respondent's Comparable Sales 2 and 3 back to the same vacant land as the subject property. He used the market approach as his method of value and looked at the design and sale dates when choosing the comparables.

14. Mr. Mailo testified that numerous homes in Lexington Shores are larger and more expensive than those in the subject neighborhood. However, by utilizing the adjustment process for the differences, Mr. Mailo testified that he adequately shows what the value should be for the subject property. He also did not use any homes that sold for over a million dollars. Through the adjustment process, he compensated for differences in square footage and amenities. The witness testified that there has been a discrepancy between the Petitioner and Respondent as to the square footage of the subject property. Mr. Mailo testified that he personally has not been able to measure

the subject property, so he used the Petitioner's basement square footage figure. He further testified that any minor differences in square footage in the main floor, basement or garage would not affect value. He also used Adams County ratings for condition of the subject and each sale.

15. Upon cross-examination, Mr. Mailo restated the disagreement between the parties over the square footage of the house and garage. The sales comparison grid in Respondent's Exhibit 1 uses the Respondent's square footage. Respondent's records show 3,547 square feet on the main floor, whereas the owner testified that the main floor measures 3,368 square feet. Mr. Mailo testified that both figures were acceptable and close enough in this size range that the difference would have no impact on value.

16. Respondent assigned an actual value of \$780,000.00 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 Board was convinced that the comparable sales used in Respondent's Exhibit 1 were superior to the subject property. The Board understands that the sales are located in the same general development as the subject. However, the evidence and testimony of both parties persuaded the Board that Respondent's comparable sales are in a superior pocket neighborhood of higher priced homes.

3. The Board reviewed the properties presented in Petitioner's Exhibit A. The Board agrees with Respondent that this information reflects Respondent's actual values rather than sale prices. The Board could give little weight to this information; however, it was analyzed for sales during the base period.

4. Mr. Mailo asserted that site view and site size were most critical in choosing his comparables. While the Board agrees that these factors are important, ultimately the vacant land behind the subject property will be developed. Upon review of all of the sales data presented by Petitioner and Respondent, the Board determined that site location within the immediate market area of the subject was most important. Homes in the Lexington neighborhood would be more comparable to the subject property in quality and design. The Board contends homes in Lexington Shores would appeal to buyers looking for higher priced homes.

5. The Board believes Respondent overvalued the subject property by not applying a larger adjustment for differences in quality between the subject and Respondent's Sales 1 and 3. Furthermore, sufficient evidence and testimony was presented to satisfy the Board that the price per square foot in the subject neighborhood of Lexington is lower than the price per square foot in the upscale neighborhood of Lexington Shores.

6. The Board recalculated the Respondent's comparable grid and considered the sales Petitioner presented that occurred during the extended base period. The resultant values ranged from \$640,000.00 to \$760,000.00, indicating that a reduction in the subject property value is warranted.

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 \$700,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$700,000.00.

The Adams County Assessor is directed to change his 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 7th day of February, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Rebecca Hawkins

Rebecca Hawkins

This decision was put on the record

FEB 06 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

