

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHARLES D. CONSTANCE,</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: Charles D. Constance Address: 5204 Pine Hill Circle Howell, Michigan 48843 Phone Number: (586) 634-9896 x 18092 E-mail: douganddonna@comcast.net</p>	<p>Docket Number: 41947</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 20, 2004, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Jennifer A. Davis, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**13199 Elk Run, Nathrop, Colorado
Chaffee County Schedule No. R353318100059**

Petitioner is protesting the 2003 actual value of the subject property, a vacant 2.5-acre site in Mesa Antero, a 272 acre-subdivision between Salida and Buena Vista off Highway 285.

ISSUES:

Petitioner:

Petitioner contends that the subject was incorrectly valued for tax year 2003; a nearly identical site was assessed considerably lower than the subject.

Respondent:

Respondent contends that the subject site has been correctly valued using the market approach.

FINDINGS OF FACT:

1. Charles D. Constance, Petitioner, presented the appeal on his own behalf.
2. Mr. Constance testified that Lot 145, a nearly identical site with 2.59 fairly flat acres, similar views and no trees, carried an actual value of \$50,594.00, much lower than the subject's \$69,466.00.
3. Mr. Constance presented Exhibit E, an Assessor-provided document grouping lots by size and terrain, testifying that Lots 98, 172, and 181 were grouped along with the subject and similarly assessed at \$69,466.00 but were larger with rolling terrain and more trees. He testified that the subject is inferior because it is level and without trees and should not have been grouped with these superior sites. Exhibit E reports acreages for these sites as 2.6, 3.21, and 2.69, respectively.
4. Petitioner is requesting a 2003 actual value of \$50,594.00 for the subject property.
5. Respondent's witness, Dean C. Russell, a Registered Appraiser with the Chaffee County Assessor's Office, presented an indicated value of \$69,464.00 for the subject property based on the market approach.
6. Respondent's witness presented three comparable sales ranging in sales price from \$62,000.00 to \$67,500.00 and in size from 2.59 to 3.21 acres. After time trending, the sales ranged from \$67,735.00 to \$70,330.00. Mr. Russell testified that all had similar topography, views, and few or no trees. He discussed his time trend analysis referenced in Exhibit 1.
7. In response to Petitioner's request for comparison to Lot 145, Mr. Russell testified that the \$50,594.00 assessment for Lot 145 was lower than that for the subject site because it was in a section of lots, described as Lots 128 through 134 and Lots 141, 144, and 145, that had historically sold for less. He testified that more current studies indicated increasing trends for that section of the subdivision and that, in retrospect, assessments in the \$50,000.00 range were too low. In support, Exhibit E reports that Lot 145 was purchased January 18, 2002 for \$67,500.00.
8. Respondent assigned an actual value of \$69,466.00 to the subject property for tax

year 2003.

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 has carefully considered all of the evidence and testimony presented and affirms the Respondent's assigned value. The Respondent presented a well-supported and documented appraisal report.

3. The Petitioner relied heavily on Lot 145, a nearly identical site, stating that the subject should be similarly assessed at \$50,594.00. The Board cannot weigh comparisons based on assessed values, as this 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. Colorado Revised Statutes requires that residential property be valued using the market comparison approach for ad valorem tax purposes. The Board only considers assessment information as additional support for comparable sales, and it should be noted that Petitioner's Exhibit E reported that Lot 145 sold for \$67,500.00 on January 18, 2002, which supports Respondent's testimony that selling prices have increased in Lot 145's section and that its assessed value of \$50,594.00 was too low.

4. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$69,466.00 for tax year 2003.

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 20th day of June, 2004.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

JUN 23 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

