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| <p><b>BOARD OF ASSESSMENT APPEALS,<br/>STATE OF COLORADO</b><br/>1313 Sherman Street, Room 315<br/>Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>HELEN LOUISE MEAD,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PITKIN COUNTY BOARD OF EQUALIZATION.</b></p> |                                    |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Helen Louise Mead<br/>Address: P.O. Box 3407<br/>Aspen, Colorado 81612<br/>Phone Number: (970) 920-7288</p>  | <p><b>Docket Number: 42113</b></p> |
| <p><b>ORDER</b></p>   |                                    |

**THIS MATTER** was heard by the Board of Assessment Appeals on March 31, 2004, Diane M. DeVries and Judge Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Christopher G. Seldin, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**8019 Woody Creek Road, Woody Creek, Colorado  
(Pitkin County Schedule No. R012768)**

Petitioner is protesting the 2003 actual value of the subject property, a single-family residential dwelling located at 8019 Woody Creek Road, Woody Creek, Colorado.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property has been overvalued for tax year 2003. Respondent's comparable sales are not relevant to the subject property and much of the Respondent's valuation includes personal property.

### **Respondent:**

Respondent contends that the subject property has been valued correctly for tax year 2003 based on the market approach.

## **FINDINGS OF FACT:**

1. Ms. Helen Louise Mead, Petitioner, presented the appeal on her own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$600,000.00 for the subject property.
3. Ms. Mead presented Petitioner's Exhibit F, Respondent's comparable sales grid.
4. Petitioner testified that \$50.00 per square foot, the value applied to basement square footage, should be applied to the ground level of the subject property. Petitioner indicated that the total square footage of the subject property is 3,960 square feet; Respondent's total square footage is incorrect.
5. Ms. Mead testified that the ground level is not a basement and it has not been turned into new living area as Respondent contends. She has chosen to use the ground level as living area as it was intended, although past owners used it as a garage and shop area. Petitioner testified that the ground level has been living area since she purchased the property on March 3, 2000 for \$534,000.00 at fair market value. As indicated in the 1980 photo of the subject property shown in Petitioner's Exhibit B, the only entrance into the dwelling is at ground level. Page 46 of Respondent's Exhibit 1 shows photographs of the subject property as it appeared on June 30, 2002. Petitioner has not changed the heating system since she purchased the subject property. The heat is a radiant heat system, which covers approximately 40 percent of the ground level. The floors on the ground level are concrete with loose pad and carpet.
6. Petitioner testified that the Respondent's office indicated that no permits were obtained for the subject property, although she has these documents. She has a construction permit, electric permit, and a permit from the fire department to burn dead brush.

7. Ms. Mead testified that page 6 of Respondent's Exhibit 1 indicates that she added a new balcony, although she only repaired the existing wood balcony per County code. She had not added a hot tub as of June 30, 2002. A hot tub is personal property and should not be included in her valuation. There are no new windows, although she has replaced some windows with used windows she obtained from the town dump. She did clean the existing windows.

8. Petitioner maintains that Respondent's photos of the subject property, taken 18 months after the date of valuation, have been color enhanced and have been used to determine a higher value.

9. The Petitioner testified that she re-measured her living area and it should be 2,810 square feet. The Respondent has indicated that 1,270 square feet is a garden level caretaker apartment. This is her home and is not an apartment. Since purchasing the property, she made some improvements and redecorated this area. It should be valued as a finished basement at \$50.00 per square foot.

10. Petitioner testified that the stone veneer had not been applied to the residence as of June 30, 2002; it was completed in November 2003. The Respondent's photos do not accurately portray the subject property as of June 30, 2002. The windows are very old and have never been painted. The new door was not installed until November 2003.

11. Petitioner indicated that she was cautious of Mr. Fite; perhaps he has a conflict of interest and some emotionalism toward the subject property. Therefore, she did not allow him access into her home for an inspection. Mr. Fite has indicated that he relied on a confidential source to determine information contained in Respondent's Exhibit 1, information not available in public records. Petitioner believes that her neighbor may want her to move and is the confidential source. She wants the quiet enjoyment of her home as deeded by law.

12. Petitioner testified that Respondent's comparable sales are not relevant, although it is difficult to find comparables in that area. Location is critical to value. She lives in Lenado, a logging community camp seven miles up the canyon. The lower part of the canyon has easier access and homes are newer construction, although the subject property was built in 1960. There are adverse factors on the dirt roads to Lenado; they are challenging due to bumps, curves, and a single lane. The canyon is cold, narrow and lacks sunshine. Forest fire possibility is very high and there is only one exit. There are limited buyers for this area.

13. The Petitioner feels she is being assessed yearly by the Pitkin County Assessor's Office, although the law requires a two-year revaluation.

14. Petitioner testified that by giving up an in-house garage, she has lowered the value of the subject property. She believes that Respondent has placed a biased valuation on the subject property.

15. Under cross-examination, the Petitioner testified that when she purchased the subject property, the entrance was a rough opening with a garage door in poor condition that could not be used. She replaced that door with a walk-in door. In 1985 or 1986, stairs were added to the second level, but until that time there was no access to the second or third level.

16. Based on questions from the Board, the witness testified that when she purchased the property, the area shown as a two-car garage on Petitioner's Exhibit C was used as a garage and storage area. Since purchasing the property, she has finished this area but it has no central heat. Approximately 350 square feet of heated area has always been finished. A bathroom was also added to the area shown as unfinished in Petitioner's Exhibit C.

17. Petitioner is requesting a 2003 actual value of \$610,030.00 for the subject property.

18. Respondent's witness, Mr. Daniel J. Corcoran, a Licensed Appraiser with Western Slope Appraisal Service, Inc., testified by telephone.

19. Respondent's witness testified that he performed two appraisals on the subject property for Aspen Mountain Mortgage. On March 21, 2001 he concluded to a value of \$950,000.00 for the subject property. On May 29, 2002 he prepared an appraisal for Colorado Federal Savings Bank and concluded to a value of \$1,000,000 for the subject property. The appropriate adjustments were made to the comparable sales used. He physically inspected the subject property on both occasions; the first time the ground level was being renovated and the second time it was finished. Approximately 25 percent was finished on the first visit and 100 percent was finished on the second visit and included a bath, kitchen, and living room that contributed to the additional finished living area. He spoke to the Petitioner at the time of the first inspection and she had just purchased the property. She showed him what she wanted to do with the property, as well as what she had already done. At that time, he was under the impression that she felt she had made a good deal based on seller motivation and the condition of the property. On his second visit, he recalled that Ms. Mead indicated that she had received an informal offer of \$1,200,000.00 for the property, although she declined the offer.

20. During cross-examination, Mr. Corcoran testified that page 40 of Respondent's Exhibit C shows that the subject property was under contract for \$850,000.00. This was a typographical error; the subject property was not under contract when he prepared the appraisal. The opinion of value indicated in an appraisal typically has nothing to do with the contract price. He stated that properties similar to the subject property in the Woody Creek and Aspen areas are unique and have limited buyers.

21. Respondent's witness, Mr. Larry Fite, a Certified General Appraiser with the Pitkin County Assessor's Office, presented an indicated value of \$850,000.00 for the subject property based on the market approach.

22. Respondent's witness presented six comparable sales ranging in sales price from \$555,700.00 to \$1,550,000.00 and in size from 910 to 2,660 square feet. After adjustments were made, the sales ranged from \$785,000.00 to \$906,300.00.

23. Respondent's witness testified that the subject property is located in a more remote area of Pitkin County. Respondent's six comparable sales are in close proximity to the subject. Sales 3 through 6 are further from the city of Aspen than the subject property. A general rule of thumb is that values decrease as the distance from the city increases. Adjustments were made for site and view to compensate for the subject's location. Some of the comparable sales were adjusted to reflect the subject property's rental cabin. Personal property was not included in Respondent's value, although the Computer Assisted Mass Appraisal (CAMA) report showed a hot tub on the subject property. Mr. Fite testified that his visit to the subject property was prompted by the building permits that were pulled. He did a follow-up inspection in November 2003. He was unable to inspect the interior of the property at that time.

24. Respondent's witness testified that the 1998 listing information for the subject property, Respondent's Exhibit F, pages 84 and 85, shows that the property had an oversized two-car garage and unfinished basement when it was offered for sale.

25. Mr. Fite testified that the price per square foot is generally not relied upon for determining an opinion of value, but is used only as a rough unit of comparison. The heated living area of the subject property is 3,812 square feet based on historical data in the Pitkin County Assessor's office.

26. Regarding the Respondent's reliance on confidential sources, Mr. Fite testified that he obtained information from Real Property Transfer Declarations and he cannot share that information with anyone other than the property owner. He did not rely on any individual as a confidential source. The increase in value since the last valuation was based on the lower level that had been valued as a garage and unfinished area, whereas as of June 30, 2003, it was valued as heated living area based on the permits.

27. During cross-examination, Mr. Fite testified that no complaints regarding the subject property had been filed with his office. He did talk to Mr. Pearson, a former owner of the subject property and an employee of the Assessor's office. He also talked to the other former owner to confirm the unfinished basement area. He indicated that the discrepancy surrounding the deck is a matter of semantics in terms of whether it was repaired or replaced. The original deck no longer exists; a new log deck is in place. He has no factual data as to what was replaced. He did not use color enhancement on the photos of the subject property. The historic records in the Pitkin County Assessor's office show an unfinished basement and a two-car garage, although that information may be inaccurate.

28. Based on questions from the Board, Respondent's witness testified that he did assign a value for the hot tub in his appraisal report.

29. Respondent assigned an actual value of \$775,000.00 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 Respondent presented three appraisals that had effective dates within the January 1, 2001 to June 30, 2002 base period. The opinion of market value contained in all three appraisals support a value that exceeds the assigned value. The Board was most persuaded by the Respondent's witnesses. Mr. Corcoran and Mr. Fite presented well-documented and reasonably adjusted market approaches to value.

3. The Board notes that Mr. Fite did include an adjustment for a hot tub in his appraisal report; however, this adjustment has no effect on the Respondent's assigned value.

4. The Board was persuaded by the testimony from Mr. Corcoran regarding the condition, ground level and finished areas of the subject property as he performed a physical inspection of the property during the base period.

5. The Board treated the 1,230 square feet of ground level area as basement area and determined that the \$50.00 per square foot value is warranted. A recalculation of the above ground living area of 2,460 square feet was applied to the subject property using \$125.00 per square foot when adjusted to the six comparable sales. The calculation was based on Mr. Corcoran's appraisal information since he is considered a professional in the appraisal of real property and did make a physical inspection of the subject property. All of the other adjustments applied by the Respondent to the six comparable sales were determined to be appropriate. The adjusted values indicated by this recalculation of living area support Respondent's assigned value.

6. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$775,000.00 for tax year 2003.

### **ORDER:**

The petition is denied.

### **APPEAL:**

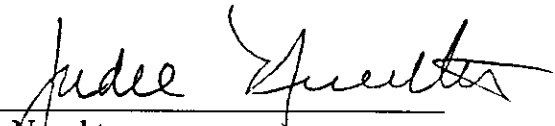
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 23<sup>rd</sup> day of April, 2004.

**BOARD OF ASSESSMENT APPEALS**

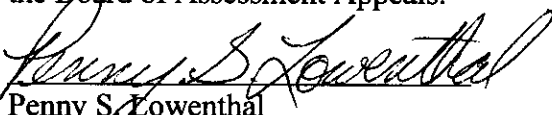
  
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Diane M. DeVries

  
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Judee Nuechter

This decision was put on the record

APR 22 2004

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

  
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Penny S. Lowenthal

