

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL S. WALSH, TRUSTEE,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Michael S. Walsh Address: 5229 Idylwild Trail Boulder, Colorado 80301 Phone Number: (303) 530-1117</p>	<p>Docket Number: 42115</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 3, 2004, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Frank Celico, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Unit 420, Copper Springs Lodge, Copper Mountain, Colorado
(Summit County Schedule No. 6505672)**

Petitioner is protesting the 2003 actual value of the subject property, a residential condominium consisting of 878 square feet built in 1999.

ISSUES:

Petitioner:

Petitioner contends that the subject has been overvalued for tax year 2003. Respondent's comparable sales are superior to the subject, reflect higher value ranges, and the adjustments made to the sales are very aggressive.

Respondent:

Respondent contends that the subject has been correctly valued. The comparable sales used were adjusted for any differences in characteristics.

FINDINGS OF FACT:

1. Mr. Michael S. Walsh, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$292,000.00 for the subject property.
3. Petitioner presented three comparable sales ranging in sales price from \$258,000.00 to \$317,500.00 and in size from 835 to 896 square feet. No adjustments were made to any of the sales.
4. Mr. Walsh derived an average from the three sales for an indicated value point of \$292,000.00. Two of Petitioner's sales are located in the subject's complex and one of the sales is located in "Passage Point," a competing development.
5. Mr. Walsh testified that he purchased the condominium new approximately five years ago. The subject is located within the "Copper Springs Lodge" subdivision. The subject is a two-bedroom, two-bathroom home consisting of approximately 878 square feet.
6. Mr. Walsh testified that four of the five comparable sales used by the Respondent are located in "Passage Point Lodge," a newer area considered to be a more upscale complex. Respondent's Comparable Sale 3 is the only sale used from the subject's subdivision, and is included in Petitioner's comparable sales.
7. Mr. Walsh testified that the market was declining during the January 1, 2001 through June 30, 2002 base period and that the Respondent's value conclusion is well overstated.
8. Petitioner is requesting a 2003 actual value of \$292,000.00 for the subject property.

9. Respondent's witness, Melanie Shade, a Certified Residential Appraiser with the Summit County Assessor's Office, presented an indicated value of \$326,014.00.00 for the subject property based on the market approach.

10. Respondent's witness presented five comparable sales ranging in sales price from \$315,099.00 to \$404,116.00 and in size from 781 to 892 square feet. After adjustments were made, the sales ranged from \$323,602.00 to \$339,287.00.

11. Ms. Shade testified that four of the sales are located within "Passage Point" and one is located in "Copper Springs Lodge." All of the sales share the same floor location and are middle units.

12. Ms. Shade made adjustments for location on the four sales located in "Passage Point." The subject's complex is located closer to ski areas and the competing complex is located within town. Adjustments were made for all of the differences in characteristics, including a downward adjustment for time trending, as the market area was declining during the base period.

13. Ms. Shade testified that two of Petitioner's sales are not suitable for comparison. Petitioner's Sale 2, Unit 107, was purchased and traded back and was not considered to be an arms-length transaction. Petitioner's Sale 3 is located on the first floor, whereas the subject is located on the fourth floor. There were adequate sales from the time frame to perform a supportable analysis.

14. Under cross-examination, Ms. Shade testified that adjustments were made to all of the sales to reflect any differences in physical characteristics and that the subject's assigned value is supported by the sales.

15. Under re-direct, Ms. Shade testified that the sale of Unit 320, located in "Copper Springs Lodge," closed one day after the data collection period and was not considered in the analysis. This Unit is located on the third floor and has approximately 877 square feet. Units located on higher floors command premium prices, as they have better views and less noise.

16. Respondent assigned an actual value of \$335,349.00 to the subject property for tax year 2003, but is recommending a reduction in value to \$326,014.00.

CONCLUSIONS:

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

2. Although Petitioner did not follow appropriate appraisal methodology in arriving at his conclusion of value, the Board was persuaded by Petitioner's argument that four of Respondent's five comparable sales are located in a superior development and the adjustments made are very aggressive and not substantiated.

3. With the exception of Respondent's adjustments for time, The Board finds the other

adjustments to be very aggressive, particularly in light of a downward market trend. Respondent's sales vary in size by only 97 square feet. All of Respondent's sales have two bedrooms and two bathrooms, indicating similar functional utility. The Board was not convinced that anyone would pay \$3,528.70 for an additional 14 square feet of living area or \$24,448.85 for an additional 97 square feet of living area. The Board also finds the \$4,513.39 adjustment for a two-year age difference to be excessive.

4. Both parties included the sale of Unit 412, located in the subject's development, in their analyses. The Board finds this sale to be the best indicator of value. Although Unit 412 has an additional 97 square feet of living area, it is identical to the subject in location, age, and functional utility. The Board subtracted the gross living area adjustment from Unit 412, Respondent's Sale 3, to derive the subject's indicated value of \$299,154.00.

6. The Board concluded that the 2003 actual value of the subject property should be reduced to \$299,154.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$299,154.00.

The Summit County Assessor is directed to change his/her 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 3rd day of November 2004.

BOARD OF ASSESSMENT APPEALS

Karen E. Hart
Karen E. Hart

Debra A. Baumbach
Debra A. Baumbach

This decision was put on the record

NOV 02 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

