

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioners:

JAMES D. AND JEAN C. HERBERT,

v.

Respondent:

LARIMER COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioner:

Docket Number: 42204

Name: James D. Herbert
Address: 363 Pioneer Road
Lyons, Colorado 80540
Phone Number: (303) 823-0726

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 19, 2005, Debra A. Baumbach and Steffen A. Brown presiding. Petitioners appeared pro se. Respondent was represented by Linda Connors, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**523 Pioneer Road, Lyons, Colorado
(Larimer County Schedule No. R0593630)**

Petitioners are protesting the 2003 actual value of the subject property, a 10.33-acre site located in Spring Gulch Ranch Estates.

ISSUES:

Petitioners:

Petitioners contend that the subject property was overvalued for tax year 2003.

Respondent:

Respondent contends that the subject property was valued correctly and that the appraised value is well supported at \$245,900.00 based on the market approach to value.

FINDINGS OF FACT:

1. Mr. James D. Herbert presented the appeal on behalf of Petitioners.
2. Based on the market approach, Petitioner presented an indicated value of \$169,000.00 for the subject property.
3. Mr. Herbert does not believe that the subject property would sell for the assigned value of \$196,726.00. He believes that the appraisal report contained in Petitioners' Exhibit A establishes the correct value at \$169,000.00.
4. Petitioners' witness, Mr. Chet Buhrmann, a Certified General Appraiser, presented four comparable sales ranging in sales price from \$199,500.00 to \$255,000.00 and in size from 5.11 acres to 13.1 acres. After adjustments were made, the sales ranged from \$132,000.00 to \$222,500.00.
5. Mr. Buhrmann testified that Petitioners' appraisal report was completed for tax protest purposes and that the sales used are within the base period. He inspected the subject property as well as the comparable sales and extracted the appropriate adjustments from the market.
6. Under cross-examination, Mr. Buhrmann testified that he inspected the subject and the comparable sales in September 2003. As all of the comparable sales occurred within the 18-month base period, he determined that no adjustment for time was necessary. Mr. Buhrmann testified that there were no paired sales from within the subject subdivision. Citing Multiple Listing Service data, Mr. Buhrmann testified that two sales from other mountain communities were paired to support a 20% adjustment for differences in topography. As to the view adjustment, Mr. Buhrmann testified that it was subjective and based on his inspection of the properties. Although the subject has good views, Petitioners' Sales 2, 3 and 4 are at higher elevations with superior views. Mr. Buhrmann admitted that trees, access and views might be more important features than lot size.
7. Petitioner is requesting a 2003 actual value of \$169,000.00 for the subject property.

8. Respondent's witness, Ms. Alexis M. Smith, a Certified General Appraiser with the Larimer County Assessor's Office, presented an indicated value of \$245,900.00 for the subject property based on the market approach.

9. Respondent's witness presented four comparable sales ranging in sales price from \$199,500.00 to \$255,000.00 and is size from 5.11 to 13.17 acres. After adjustments were made, the sales ranged from \$211,600.00 to \$269,000.00.

10. Ms. Smith testified that Respondent's sales, which were the same as Petitioners' sales, were time adjusted at .25% per month.

11. Ms. Smith testified that all of the sales were less steep than the subject but that she disagrees with Petitioners 20% topography adjustment. She believes that topography, along with trees and outcroppings, are positive features. Ms. Smith testified that potential buyers do not just consider size, but all of the characteristics of the entire site. Ms. Smith testified that she could have adjusted two of the sales for the wells but by no more than \$8,000.00.

12. Ms. Smith gave most weight to Comparable Sale 3 as the site is mostly level near the road with steep outcroppings near the back of the property, which is similar to the subject.

13. Under cross-examination, Ms. Smith testified that she does not believe an adjustment for topography is warranted and that there is a balancing act between site amenities. Although she could have adjusted for the wells, Ms. Smith testified that it would have made no difference in value. Ms. Smith testified that numerous switchback roads, similar to those at the subject's boundaries, run throughout the subdivision.

14. Respondent assigned an actual value of \$196,720.00 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. Petitioner and Respondent used the same four sales from within the subject subdivision. After a careful review of these sales, the Board was not convinced that site size adjustments were warranted. The smallest site had the highest sales price.

3. The Board was not convinced that the adjustment for view is supported.

4. The Board was not persuaded that topography is a critical factor in the purchase of a site located in the subject subdivision. Based on pictures presented by both parties, each site has outcroppings and terrain that would prevent building in certain areas.

5. Respondent testified that the only adjustment made was for time at .25% per month; however, the Board found the adjustment to be about .47% per month. Regardless of the time adjustment and considering an adjustment for the wells, the Board determined that the subject's final value would not be affected.

6. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$196,726.00.

ORDER:

The petition is denied.


APPEAL:

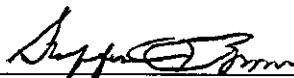
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 7th day of May 2005.

BOARD OF ASSESSMENT APPEALS

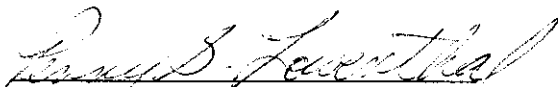

Debra A. Baumbach


Steffen A. Brown

This decision was put on the record

MAY 06 2005

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


Penny S. Lowenthal

