

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KEITH A. AND LESLIE A. FRANZ,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Keith A. Franz Address: 9867 Falcon Creek Drive Highlands Ranch, Colorado 80130 Phone Number: (303) 470-9007</p>	<p>Docket Number: 42210</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 13, 2004, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Michelle B. Gombas, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6875 Lemon Gulch Drive, Castle Rock, Colorado
(Douglas County Schedule No. R0380822)**

Petitioner is protesting the 2003 actual value of the subject property, a 35.005-acre vacant site located in Castle Rock, Colorado.

ISSUES:

Petitioner:

Petitioner contends that a potential future road impacted the value of the subject site and was not adequately addressed in the market approach. He also contends that the income approach is a better indicator of value.

Respondent:

Respondent contends that the 2003 actual value of the subject property is correct based on the market approach.

FINDINGS OF FACT:

1. The subject site is located in the Castle Park Ranch subdivision east of I-25, west of Crowfoot Valley and Parker Roads, and north of downtown Castle Rock.

2. Keith A. Franz, Petitioner, presented the appeal on his own behalf.

3. Mr. Franz testified that Douglas County plans to build a highway from I-25 to Parker Road. The exact location of the road has not yet been determined. A county official told him that because the subject property and the site to the east will potentially be impacted, Petitioner would likely be denied a residential building permit. For this reason, he contends that the market approach to value is not appropriate.

4. Mr. Franz testified that he considered agricultural use but estimated an initial investment of \$25,000.00 for fencing and a well and fears he may not realize a full return if the land is condemned.

5. Mr. Franz contends that the income approach is the best method of valuing the property and presented an indicated value of \$4,615.00.00, using a total annual gross income of \$1,200.00, homeowner association dues of \$600.00, income of \$600.00, and a capitalization rate of 13%.

6. Petitioner is requesting a 2003 actual value of \$4,615.00 for the subject property.

7. Respondent's witness, Larry Shouse, a Certified General Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$270,000.00 for the subject property based on the market approach.

8. Mr. Shouse presented seven comparable sales ranging in sales price from \$235,000.00 to \$340,000.00 and in size from 34.1 acres to 37.608 acres. After adjustments were made, the sales ranged from \$270,250.00 to \$340,000.00.

9. Respondent's Sales 1 and 2 are located in the subject subdivision, Sales 3 through 7 in a competing subdivision with similar acreages. Other than time trending, only Sale 2 was adjusted for inferior view and shape.

10. Mr. Shouse testified that Dirk Zender of the Douglas County Planning Department agreed that a right of way proposal has been made and estimates a five-year analysis and a ten-year completion. The building department had no record of Petitioner's request for a building permit.

11. Respondent assigned an actual value of \$267,300.00 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 is convinced that a proposal for a new road exists and is in the early stages of public input with years to completion.

3. The Board is not convinced that the income approach to value is appropriate for the subject property.

4. The Board acknowledges Petitioner's concern that the subject property has been physically and financially impacted by the potential of a future road. It is not convinced that property values were affected during the base period and that any impact that may have occurred would have been reflected in the sales prices of similar properties in the market approach to value.

5. The Board is convinced that Respondent's market approach adequately addresses value during the base period as well as Petitioner's concerns about the impact of a new road, especially the inclusion of Sales 1 and 2, which are located in the subject subdivision and similarly affected.

6. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$267,300.00 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 9th day of August 2004.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

AUG 09 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

