

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>EDWARD M. & KATHLEEN M. CLARKE,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Edward M. Clarke Address: 603 Fareham Court Castle Rock, Colorado 80104 Phone Number: (303) 663-1546</p>	<p>Docket Number: 42517</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 20, 2005, Debra A. Baumbach and Karen E. Hart presiding. Petitioners appeared pro se. Respondent was represented by Michelle Gombas, Esq. Petitioners are protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 26 BLK 9 PERRY PARK 5 1.041 AM/L (Vacant Land)
(Douglas County Schedule No. R0012693)**

The subject property consists of a 1.041-acre vacant lot in Perry Park subdivision in unincorporated Douglas County.

ISSUES:

Petitioners:

Petitioners contend that the subject property has been overvalued. Respondent's sales are not comparable to the subject and are not properly adjusted for views and rock outcropping. There is also an easement over the property, which reduces the useable space of the subject.

Respondent:

Respondent contends that the subject property has been properly valued using the market approach.

FINDINGS OF FACT:

1. Mr. Edward M. Clarke, Petitioner, presented the appeal on behalf of Petitioners.
2. Based on the market approach, Petitioners presented an indicated value of \$69,000.00 for the subject property.
3. Petitioners presented three comparable sales ranging in sales price from \$67,500.00 to \$71,000.00 and in size from .964 acres to 1.038 acres. No adjustments were made to the sales.
4. Mr. Clarke testified that the subject property has no views. Respondent's five comparable sales have extensive views, which could be a \$10,000.00 to \$20,000.00 premium per lot. The subject lot backs to and is located in the forest. The subject lot is impeded by the concrete easement drive, which accesses the neighbor's property. Mr. Clarke believes Petitioners' three comparable sales more fairly represent the subject property's value.
5. Mr. Clarke testified that he inspected both his sales and Respondent's sales. Petitioners' sales have no views and are treed lots similar to the subject. All of the sales represent full one-acre lots, whereas the subject is impeded by the driveway easement by a 10% land area factor.
6. Petitioners are requesting a 2003 actual value of \$69,000.00 for the subject property.
7. Respondent's witness, Mr. Mike Shafer, a Certified General Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$90,250.00 for the subject property based on the market approach.
8. Respondent's witness presented five comparable sales ranging in sales price from \$79,500.00 to \$100,000.00 and in size from .903 to .996 square feet. After adjustments for time, the sales ranged from \$79,500.00 to \$112,612.00. No other adjustments were made to the sales.

9. Mr. Shafer testified that the subject lot is residential vacant property located west of Highway 105 in the Perry Park subdivision. The subject property is in a secluded area and is heavily treed. The comparable sales were selected based on comparability to the subject in characteristics such as zoning, location, access, infrastructure, size, topography, and site improvements. All of the sales occurred within the 18-month base study period of January 1, 2001 through June 30, 2002. Mr. Shafer does not believe the comparable sales have better views than the subject.

10. Regarding Petitioner's sales, Mr. Shafer testified that Sale 1 should have a time adjusted sale price of \$74,587.00. Comparable 2 requires no time adjustment. Mr. Shafer testified that the buyer of Comparable 2 also purchased another lot from the same seller on the same day; he believes this may have affected the sales price. Comparable 3 should have a time adjusted sales price of \$76,089.00. Sales 1 and 3 are located in an area of the subdivision that has fewer trees than the subject.

11. Mr. Shafer admitted that he had not considered the driveway easement in the analysis. He would recommend a negative 5% adjustment for this attribute, reducing the appraised value to \$90,250.00.

12. Under cross-examination, Mr. Shafer admitted that he had not inspected the subject lot.

13. Respondent's witness, Mr. Larry Shouse, a Certified General Appraiser and Senior Appeals Appraiser with the Douglas County Assessor's Office, testified that he prepared the appraisal presented as Respondent's Exhibit 1 and that he inspected the subject property. The sales shown on page 15 of the exhibit consist of all valid sales that occurred in the subdivision during the base period. He believes his five comparable sales are the most similar to the subject. All of the sales were buildable sites with infrastructure in place and site ready. He inspected the comparable properties and did not recognize any view difference as compared to the subject property. He did not consider the location of the comparables to be an issue. He believes that Petitioners' comparable sales reflect the lower range of value and are not typical prices.

14. In cross-examination, Mr. Shouse testified that he believes that view attributes are offset by the presence of trees and seclusion in the Perry Park area.

15. Respondent assigned an actual value of \$90,000.00 to the subject property for tax year 2003.

CONCLUSIONS:

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

2. The Board was convinced that the subject property does not have views and that adjustments should be made for this attribute. The Board analyzed all sales presented. The time adjusted sales prices ranged from \$71,000.00 to \$112,612.00. The Board determined that the subject

value should come from the lower end of the range to reflect the subject's lack of views and the presence of the road easement.

3. After careful consideration of all of the testimony and evidence presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$80,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$80,000.00.

The Douglas 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 28th day of January 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Karen E. Hart
Karen E. Hart

This decision was put on the record

JAN 27 2005

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

