

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>CHARLES E. RUSS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Charles E. Russ Address: 2931 Oak Street Lakewood, Colorado 80215 Phone Number: (303) 237-1028</p>	<p><b>Docket Number: 42716</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 17, 2004, MaryKay Kelley and Rebecca Hawkins presiding. Petitioner appeared pro se. Respondent was represented by Eugene Mei, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**2931 Oak Street, Lakewood, Colorado  
(Jefferson County Schedule No. 070636)**

Petitioner is protesting the 2003 actual value of the subject property, a ranch style single-family residence built in 1968 on a .308-acre parcel. The property has 1,773 square feet on the main floor with three bedrooms and 1.5 bathrooms. It has a fully finished walkout basement, fireplace and a two-car garage.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property has been overvalued. He based his value on a price per square foot. Petitioner is concerned with fairness regarding how values are assessed.

### **Respondent:**

Respondent contends that the subject property has been correctly valued. The value presented is based on the sales comparison approach with proper adjustments applied. All comparables used are within one mile of the subject property.

## **FINDINGS OF FACT:**

1. Mr. Charles E. Russ, Petitioner, presented the appeal on his own behalf.
2. Petitioner presented an indicated value of \$250,000.00 for the subject property.
3. Petitioner presented 73 sales ranging in sales price from \$194,000.00 to \$495,000.00 and in size from 1,229 to 4,968 square feet. No adjustments were made to the sales. Petitioner obtained the sales information from the Jefferson County Assessor's website.
4. Mr. Russ testified that he refused to grant an interior inspection of the subject property. An inspection of his home was not fair unless the appraiser inspected all of the other homes involved. Mr. Russ testified his home is 67% frame with a walkout basement. The home next door to the subject at 2961 Oak Street was valued at \$300,000.00 as shown in Petitioner's Exhibit A, Case #2. Mr. Russ feels it is unfair that this home is 53% larger than the subject, yet is valued lower.
5. Mr. Russ testified that he is an engineer and described problems in his home during the base period:
  - The basement has structural problems.
  - Numerous cracks have appeared in the basement floor.
  - Heaving has affected buried copper pipes, resulting in heat loss, and he has shut off the heat on the east side of the basement.
  - The garage floor has dropped about 6 inches
  - The front door will not lock or close.
  - He has tried mud jacking twice in the past but it did not work.
6. Mr. Russ testified that he based his estimate of value on the assessed value per square foot of eight properties that he obtained from the Jefferson County Assessor's web site. This

information is contained in Petitioner's Exhibit A as Case #1. He chose homes similar to the subject property in style, square footage and basement size. He averaged the assigned values and the square footages to determine an average value of \$141.00 per square foot and multiplied this by the 1,760 square feet of his house to arrive at a value of \$248,160.00. .

7. During cross-examination, Mr. Russ testified that he did not make adjustments to the eight sales shown in Case #1, Petitioner's Exhibit A, feeling they were similar to his home. Mr. Russ testified that he did not consider differences in site size, heating, or design. He did not know how the Respondent calculated the time adjustment. Under further cross-examination, Mr. Russ explained he did not bring evidence regarding the structural problems to this hearing.

8. Petitioner is requesting a 2003 actual value of \$250,000.00 for the subject property.

9. Respondent's witness, Tammy Crowley, a Licensed Residential Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$335,000.00 for the subject property based on the market approach. Respondent's witness presented four comparable sales ranging in sales price from \$270,000.00 to \$331,000.00 and in size from 1,700 to 1,960 square feet. After adjustments were made, the sales ranged from \$298,200.00 to \$380,400.00.

10. Ms. Crowley testified that information in the Jefferson County Assessor's file showed that the subject property was masonry and frame construction with a partially finished walkout basement. Ms. Crowley inspected the subject property from the exterior. She explained an interior inspection would have rendered a more accurate appraisal of the subject property, providing observation of interior condition, level of maintenance, issues affecting the property, and any existing damage. Without the benefit of an interior inspection she had to make assumptions regarding the condition and maintenance of the subject property. She assumed the subject property had been maintained but not updated.

11. Ms. Crowley testified that she looked for sales that had occurred closest to the end of the base period. She chose four sales of ranch style homes similar in size that were within one mile of the subject property. She applied a time adjustment at 1.2% for the first year and .6% for the second year. Adjustments were made for differences in physical characteristics, including year of construction, size, basement, bedroom and bath count, heat type and patios. Equal weight was given all comparables to determine the final value.

12. Ms. Crowley testified that the methodology used in Case #1 of Petitioner's Exhibit A is not proper appraisal procedure. Petitioner used the average value per square foot and no adjustments were made for differences in property characteristics. Certain differences may contribute or take away from the value and must be recognized. Many of the properties in Case #1 are larger than the subject property and are not comparable. She explained that as homes increase in size the value per square foot decreases, so this method is not a fair comparison.

13. Ms. Crowley testified that structural problems were typical for this area and they factor into the value of the homes. She has not seen specific homes with damage but some homes in the area have problems, as slab movement is prevalent.

14. In cross-examination, Ms. Crowley testified that the comparables must be adjusted to the subject property. Comparables 1, 3 and 4 suffer from traffic noise and required adjustment. Other adjustments were given for differences in age, heating, porches and patios.

15. In response to questions from the Board, Ms. Crowley testified that nothing she learned in the course of this hearing would change her opinion of value except for evidence of structural problems causing heaving in the basement. When questioned about the sales used by Petitioner in Exhibit A, Ms. Crowley explained that she selected sales based on similarity in size and occurring near the end of the base period.

16. Respondent assigned an actual value of \$330,570.00 to the subject property for tax year 2003.

## **CONCLUSIONS:**

1. Colorado State Statute requires that residential property be valued using the market comparison approach. Comparable sales must be adjusted for differences in physical characteristics, not just analyzed for average price per square foot. Petitioner presented numerous properties showing an average price per square foot. The properties were not adjusted for differences in physical characteristic as required in basic appraisal practice. The only adjustment Petitioner made was to one sale and was based on Respondent's calculations for time trending. Due to the lack of adjustments, the Board gave little weight to Petitioner's sale information, relying upon Respondent's sale data.

2. Regarding the issue of structural problems in the basement; photos from the Petitioner and/or an engineer to illustrate basement slab movement and resulting damage would have been helpful to the Board. However, the Board was influenced by Petitioner's testimony concerning structural problems. Furthermore, in addition to Petitioner's testimony, the Board gave weight to Ms. Crowley's testimony validating a lower value if structural problems and/or slab heaving were present.

3. The Board recognizes the importance of an interior property inspection and upholds the opinion that interior inspections render a more accurate appraisal. In the absence of first-hand observation by an appraiser or engineer, assumptions regarding condition must be made. Given the structural problems, the Board was convinced that the assigned value of \$330,000.00 was too high. The Board reviewed the range of adjusted values on the market grid contained in Respondent's Exhibit 1 and adjusted the value of the subject property downward by \$20,000.00. Without specific evidence to substantiate structural damage and any cost to cure, the Board could not give further consideration to a lower value.

4. After careful consideration of all of the evidence and testimony presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$ 310,000.00.

**ORDER:**

Respondent is ordered to reduce the 2003 actual value of the subject property to \$310,000.00.

The Jefferson 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 27<sup>th</sup> day of April, 2004.

**BOARD OF ASSESSMENT APPEALS**

*MaryKay Kelley*

MaryKay Kelley

*Rebecca Hawkins*

Rebecca A. Hawkins

This decision was put on the record

APR 27 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

