

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203 <hr/> Petitioner: <b>IRENE H. BRANCH,</b>  v. Respondent: <b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b>		
Attorney or Party Without Attorney for the Petitioner:  Name: John E. Rhoads Address: 31127 Shawnee Lane Evergreen, Colorado 80439 Phone Number: (303) 674-6026		<b>Docket Number: 42718</b>
<b>ORDER</b>		

**THIS MATTER** was heard by the Board of Assessment Appeals on February 17, 2004, Rebecca Hawkins and MaryKay Kelley presiding. Petitioner was represented by her husband, Mr. John E. Rhoads. Respondent was represented by Eugene May, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**31127 Shawnee Lane, Evergreen, Colorado  
(Jefferson County Schedule No. 078209)**

Petitioner is protesting the 2003 actual value of the subject property, a 2,922 square foot split-level house with two-car garage built in 1974 in the Hiwan subdivision of Evergreen.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property was overvalued for tax year 2003, that Respondent used considerably larger homes for comparable sales and that the price per square foot of the comparable sales indicates a lower value for the subject property.

### **Respondent:**

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

## **FINDINGS OF FACT:**

1. Mr. John E. Rhoads presented the appeal on behalf of the Petitioner.
2. Mr. Rhoads introduced a list of sold properties, Exhibit C, provided by an area broker. They were not admitted into evidence because the 2003 sale dates were outside the applicable 18-month data gathering period.
3. Mr. Rhoads presented seven sales in Exhibit E that occurred in his neighborhood from July 2000 through June 2002. They ranged in price from \$365,000.00 to \$379,000.00 and in size from 2,846 to 4,952 square feet. The price per square foot of these seven sales ranged from \$80.00 to \$130.00. The assessed value of the subject property equates to \$156.00 per square foot, which is higher than the indicated range mentioned above.
4. Mr. Rhoads testified that, while the subject property's value increased by \$127,930.00, those of a neighboring house at 31057 Shawnee Lane increased by only \$60,860.00. The square footages of the two properties are almost identical, and Petitioner questioned why the increase in value of the subject property was greater.
5. Mr. Rhoads protested the increase in the land value of the subject property, although he did not present any data in support of a lower land value. He testified that there have not been any vacant land sales in the subject neighborhood in the last 10 years.
6. Mr. Rhoads testified that all three of the comparable sales used in Respondent's Exhibit 1 are larger than the subject property. Respondent's comparable sales ranged in size from 3,377 to 3,633 square feet. He testified that smaller properties would have been more comparable since the subject property is 2,961 square feet.
7. Petitioner is requesting a 2003 actual value of \$375,000.00 for the subject property.

8. Respondent's witness, Cary Lindeman, a Certified Residential Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$450,730.00 for the subject property based on the market approach.

9. Respondent's witness presented three comparable sales ranging in sales price from \$450,000.00 to \$550,000.00 and in size from 3,377 to 3,633 square feet. After adjustments were made, the sales ranged from \$452,120.00 to \$538,300.00.

10. Ms. Lindeman testified that the comparable sales are all split-level designs like the subject and were built between 1970 and 1976. Adjustments were made for size and room count, lot size and view, lower-level walkouts, garages, heat type, fireplaces, porches and patios, and dates of sale.

11. In cross-examination, Ms. Lindeman testified that state law requires the selection of comparable sales from within the neighborhood and within the appropriate time frame. She testified that smaller homes available for comparison were not split-level designs. Ms. Lindeman testified that there is a market for specific home styles and she considered only split-levels for comparison to the subject.

12. In cross-examination, Ms. Lindeman testified that vacant land sales are used to estimate value, but that she did not bring the vacant land sales data to this hearing. The witness explained that state law does not permit separating land and improvement value for protest purposes.

13. Upon further cross-examination, Respondent testified that state statute does not permit reliance on a price per square foot methodology as the basis for valuation. Market sales must be used and adjusted for differences in property characteristics.

14. Respondent assigned an actual value of \$462,630.00 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 agrees with Petitioner that the Assessor's comparable sales are considerably larger than the subject property, and although acknowledging the importance of similarity in style, is of the opinion that other styles with stairs could have been used.

3. The Board would have benefited from further description of the seven sales presented in Petitioner's Exhibit E, such as dates of sale, location, lot size and view, physical characteristics, financing and conditions of sale, and photos, as well as analysis of the differences and adjustments, following accepted appraisal guidelines

4. The Board acknowledges Petitioner's testimony regarding average price per square foot but could not give it any consideration. Average price per square foot is not an acceptable method of establishing market value either in commonly recognized appraisal practice or in the Division of Property Taxation Assessor's Reference Library guidelines.

5. The Board ultimately found the analysis and conclusions of Respondent's witness more compelling. The Respondent presented a reasonable supported value conclusion and after careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$462,630.00.

**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 9<sup>th</sup> day of March, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca Hawkins

*MaryKay Kelley*

MaryKay Kelley

This decision was put on the record

**MAR 08 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

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Petitioner:  <b>IRENE H. BRANCH,</b>  v.  Respondent:  <b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b>	
Attorney or Party Without Attorney for the Petitioner:  Name: John E. Rhoads Address: 31127 Shawnee Lane Evergreen, Colorado 80439 Phone Number: (303) 674-6026	<b>Docket Number: 42718</b>
<b>AMENDED ORDER</b>	

**THE BOARD OF ASSESSMENT APPEALS** received Petitioner's request for reconsideration on May 11, 2004. The Board did not receive a response from Respondent. The Board contacted Respondent for the purpose of clarifying conflicting values contained in Respondent's Exhibit 1.

The Board hereby amends its 2004 Order in the above-captioned appeal to reflect that the value of the subject property for tax year 2003 should be reduced to \$450,730.00.

**ORDER:**

Respondent is ordered to reduce the 2003 actual value of the subject property to \$450,730.00.

The Jefferson County Assessor is directed to change his records accordingly.

DATED and MAILED this 2<sup>nd</sup> day of June, 2004.

BOARD OF ASSESSMENT APPEALS

*Rebecca Hawkins*

Rebecca Hawkins

*MaryKay Kelley*

MaryKay Kelley

This decision was put on the record

JUN 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

