

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioner:

ROSALYN KIRKEL,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioner:

Docket Number: 42722

Name: Rosalyn Kirkel
Address: 255 Grape Street
Denver, Colorado 80220-5758
Phone Number: (303) 322-8396

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 15, 2003, Debra A. Baumbach and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Alice Major, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**255 Grape Street, Denver, Colorado
(Denver County Schedule No. 06071-32-010-000)**

Petitioner is protesting the 2003 actual value of the subject property, a one-story brick single-family residence built in 1953 consisting of 1,417 square feet of living area located in Hilltop. There are three bedrooms, 1½ baths, and a 1,133 square foot finished basement.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued for tax year 2003.

Respondent:

Respondent contends that the subject property is properly valued and that Respondent's actual value of \$338,500.00 should be upheld.

FINDINGS OF FACT:

1. Rosalyn Kirkel, Petitioner, presented the appeal on her own behalf.

2. Ms. Kirkel testified that the subject property is dated and in fair condition, its location is the least desirable in Hilltop and that the comparable sales used by the Respondent are not truly comparable to the subject property.

3. Ms. Kirkel testified that the dishwasher does not work and that the countertops in the kitchen are worn. The bathroom is outdated. The plumbing needs work. The driveway is in poor condition. The chain link fence needs to be replaced. Sprinkler system repairs are needed as stated by Keesen Lawn Sprinkler's letter included in Petitioner's Exhibit A.

4. Ms. Kirkel testified that the location of the subject property is least desirable in Hilltop. The homes on this block are small in size, modest and lack updating. They are not high-end homes.

5. Ms. Kirkel testified that Respondent's Comparable 1 is a good comparable based on what the condition of the subject property used to be. This property is well maintained, all of the appliances work, and it has a nice privacy fence. Comparable Sale 2 is similar to the subject property and was built in 1951 with red brick. There have been many improvements to this property, which sold during the period for \$420,000.00. Comparable Sale 3 has been demolished.

6. Ms. Kirkel testified that the comparable sale at 475 Albion sold September 5, 2001 for \$297,000.00. It is a smaller corner lot and is well maintained. She also presented 345 Eudora Street, which sold October 31, 2001 for \$295,000.00. She made no adjustments to these sales.

7. Ms. Kirkel presented a memorandum from Anthony Spector, realtor, stating that the 2003 actual value of the subject property should be between \$285,000.00 and \$295,000.00.

8. Petitioner is requesting a 2003 actual value of \$295,000.00 for the subject property.

9. Respondent's witness, James R. Zelensky, a Certified General Appraiser with the Assessment Division, City and County of Denver, presented an indicated value of \$360,000.00 for the subject property based on the market approach.

10. Mr. Zelensky testified that the subject property is a one-story brick residence constructed in 1953 per public record, actually built in 1951. It has a gross floor area of 1,417 square feet, full basement, three bedrooms and 1½ baths. The condition is fair and dated. The kitchen has original wood cabinets in poor condition. The vinyl is in poor condition. The hardwood floors are dated and in average condition. The bathroom is dated and in average condition.

11. Mr. Zelensky testified that he conducted an interior inspection of the subject property on February 9, 2004 in preparation of his appraisal, Respondent's Exhibit 1.

12. Respondent's witness presented three comparable sales ranging in sales price from \$295,000.00 to \$420,000.00 and in size from 1,109 to 1,417 square feet. After adjustments were made, the sales ranged from \$338,071.00 to \$373,566.00.

13. Mr. Zelensky testified that Comparable Sale 1 is a good comparable to the subject as to square footage, year of construction, and location. It is in similar condition to that of the subject property. Adjustments were made for time of sale, superior larger site, inferior basement size, and finish. Comparable Sale 2 is very similar to the subject property as it is located next door, and is comparable in location, square footage, basement size, and main living area. Adjustments were made for the remodel. Comparable Sale 3 is located five blocks northwest of the subject, and is similar as far as being dated and is inferior to the subject as to site size.

14. Mr. Zelensky testified that Petitioner's sales comparable 475 Albion has an inferior location due to schools and is smaller square footage. The comparable at 345 Eudora Street was an estate sale and the property has a flat roof and is not comparable to the subject. Petitioner and Respondent both used the comparable at 324 Elm, which is in fair and dated condition.

15. Respondent assigned an actual value of \$338,500.00 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 believes that the Respondent's appraisal report was well documented and that proper adjustments were made for differences to the subject property. The Respondent used sales that occurred within the data-gathering period that are very similar to the subject property. The Respondent took into consideration the condition of the subject property by valuing the property on the low end of the range of sales from \$338,071.00 to \$373,566.00.

3. The comparable sales used by the Petitioner were not adjusted for time, differences in physical characteristics, and condition. Therefore, the Board believes that the comparable sales used by the Respondent are more reliable. The Petitioner and the Respondent both used the same comparable at 324 Elm Street.

4. Based on all of the evidence and testimony presented, the Board determined that the actual value of \$338,500.00 is correct 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 7th day of April, 2004.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Diane M. DeVries
Diane M. DeVries

This decision was put on the record

APR 05 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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