

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 <hr/> Petitioner: RONALD M. BELAK, v. Respondent: JEFFERSON COUNTY BOARD OF EQUALIZATION.		
Attorney or Party Without Attorney for the Petitioner: Name: Ronald M. Belak Address: 3072 Kerr Gulch Evergreen, Colorado 80439 Phone Number: (303) 572-7407 E-mail: belakr@gao.gov		Docket Number: 42853
ORDER		

THIS MATTER was heard by the Board of Assessment Appeals on March 5, 2004, Diane Devries and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Lily Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**3072 Kerr Gulch, Evergreen, CO 80439
(Jefferson County Schedule No. 142370)**

Petitioner is protesting the 2003 actual value of the subject property, a wood frame raised ranch style home built in 1978 on approximately 2.844 acres. The home consists of two bedrooms on the main level and one bedroom in the basement, two bathrooms, one fireplace and an oversized two-car garage.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. The Respondent did not apply the proper time adjustments and the comparable sales are not suitable.

Respondent:

Respondent contends that the subject has been correctly valued using the market comparison approach. The comparable sales are the best that were available and adjustments were made for all physical characteristics.

FINDINGS OF FACT:

1. Mr. Ronald Belak, Petitioner, presented the appeal on his behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$335,647.00 for the subject property.
3. Petitioner presented three comparable sales ranging in sales price from \$312,500.00 to \$339,000.00 and in size from 1,342 to 1,534 square feet. After adjustments were made, the sales ranged from \$324,925.00 to \$341,516.00.
4. Mr. Belak testified that he utilized the adjustment calculations set forth by the Respondent with several exceptions. In performing his analysis, he discarded the Respondent's adjustment for time of sale and substituted his adjustment of 3.3% per year. This adjustment was based upon actual sales prices from Economic Area 8. The average sales price in 2000 was \$300,000.00; the average sales price in 2002 was \$320,000.00. The average time adjustment indicated was 3.3% for one year or 6.6% for a two-year period. Petitioner obtained his sales data from Mr. Tupper S. Briggs, a local real estate broker.
5. Mr. Belak testified that, in reviewing sales that occurred during the time frame, he found no basis for any adjustment for differences in lot size. In his analysis of the sales, homebuyers did not pay any more for the difference in lot size. He believes that the Respondent's methodology for valuing the land area is flawed and that values are inconsistent with land sizes.
6. Mr. Belak testified that the Respondent made adjustments on the comparable sales for lot size without any type of supporting documentation for those adjustments.
7. Mr. Belak testified that the Respondent informed him that the land area is valued by reviewing vacant land sales that occurred during the base period. The land value is separated from the improvement value. However, the homeowner is not allowed to appeal the value of the land separately from the value of the improvement. Additionally, the Respondent reported the subject's

land area to be level to sloping. The subject has limited usable area; most of the land area is sloping resulting in limited lot utility.

8. Mr. Belak testified that his conclusion of value conclusion is better supported and that adjustments for time trending are reflective of market trends in the area.

9. Under cross-examination, Mr. Belak testified that he did not use the formula for time trending prescribed by the Division of Property Taxation. He mainly relied on the sales data provided by Mr. Tupper Briggs for the time trending analysis. The analysis covered the Kittredge, Conifer and Evergreen areas. The different styles of homes were not removed or separated out from the list.

10. Under further cross-examination, Mr. Belak testified that a room measuring approximately 380 square feet was added to the subject's overall living area. The square footage went from 1,600 to 2,300 square feet. Initially, the subject property had a one-car garage; it now has a two-car garage.

11. Petitioner is requesting a 2003 actual value of \$335,647.00 for the subject property.

12. Respondent's witness, Cary J. Lindeman, a Certified Residential Appraiser with the Jefferson County Assessor's Office, presented an indicated value of \$375,000.00 for the subject property based on the market approach.

13. Respondent's witness presented three comparable sales ranging in sales price from \$270,000.00 to \$319,900.00 and in size from 1,183 to 1,534 square feet. After adjustments were made, the sales ranged from \$356,980.00 to \$397,440.00.

14. Ms. Lindeman testified that the sales selected for comparison to the subject property are similar in size, style, quality and age. All of the comparable sales have similar land size and topography. Adjustments were made for any differences in physical characteristics. The adjustments were derived from the purchase prices. Adjustments for age are not made unless the comparable sales are at least 10 years older than the subject property.

15. Ms. Lindeman testified that several of the land values presented by the Petitioner have an agricultural classification, indicating lower value ranges. This accounts for the differences in land values throughout the market area.

16. Ms. Lindeman testified that she does not agree with Petitioner's time trending methodology. He did not break out the differences in home styles or the other differences that can affect value.

17. Under cross-examination, Ms. Lindeman testified that land area adjustments were based on actual land values.

18. Respondent's witness, Ms. Sue Sterrett, Certified General Appraiser with Jefferson County Assessor's Office, testified that she performs the mass appraisal analysis of the value models that are used, the audit requirements and the adjustment calculations.

19. Ms. Sterrett testified that there are three to four methods used to derive the adjustment calculations. The sales ratio, multi-regression and re-sales methods are utilized to calculate the adjustments. Explanations of the methods used are shown on page 20 of Respondent's Exhibit 1.

20. Ms. Sterrett testified that the methods used for time trending are the sales ratio method, multiple regression analysis and the re-sales method. To isolate the time element, the sales have to be fine-tuned and all factors affecting the sales have to be removed. In multiple regression analysis, time trending is used as a component along with all of the other factors affecting the sale. The re-sales method removes all of the factors to isolate the time element. All of the approaches are reviewed in determining the time factor and all differences have been taken into consideration.

21. Ms. Sterrett testified that the time trending analysis presented by the Petitioner appears to be a general average and does not break out any of the differences that might affect the selling price. There are many factors that could affect the selling price that would have been eliminated to establish the time factor adjustment used.

22. Respondent assigned an actual value of \$369,000.00 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 Respondent presented a well-supported and documented appraisal report. Adjustments were made for all differences in physical characteristics.

3. The Petitioner raised several issues over the valuation of the subject property. The first issue is the land value and the methodology utilized. Pursuant to the Colorado Court of Appeals decision in *Cherne v. Board of Equalization, 885 P2d 258 (Colo. App. 1994)* "A party may seek review of only the total valuation for assessment and not of the component parts of that total." The Board could give little weight to the land sales submitted by the Petitioner. No adjustments were made to any of the sales for any differences and several of the sales have an agricultural classification rendering them unsuitable for comparison.

4. Another issue raised by the Petitioner is the time trending adjustment used by the Respondent. Both parties presented their approach to derive this adjustment. The Board found the methodology presented by the Respondent to be the most persuasive. The Respondent used several different methodologies to isolate the time element. Different styles of homes, conditions of sales

ISSUES:

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and other factors were extracted in determining the time element. The Petitioner's approach is one of the approaches used by the Respondent. However, it appears to be a much broader application and does not address each itemized factor that might have a direct impact on the sales price.

5. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$369,000.00 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.

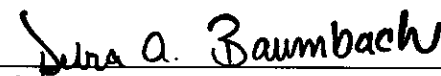
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 9th day of April, 2004.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

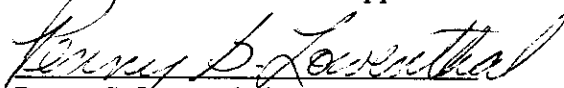


Debra A. Baumbach

This decision was put on the record

APR 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

