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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WAYNE G. LYLE,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Wayne G. Lyle Address: 7 Red Maple Littleton, Colorado 80127 Phone Number: (303) 973-4748</p> | <p>Docket Number: 43094</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 10, 2004, Rebecca A. Hawkins and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Lily Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**7 Red Maple, Littleton, Colorado
Jefferson County Schedule No. 166375**

Petitioner is protesting the 2003 actual value of the subject property, a 2,877 square foot house with basement and garage built in 1983 in Ken Caryl Ranch.

ISSUES:

Petitioner:

Petitioner contends that the Respondent did not consider the subject property's deferred maintenance and shallow back yard.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003 based on the market approach.

FINDINGS OF FACT:

1. Mr. Wayne Lyle, Petitioner, presented the appeal on his own behalf.
2. Mr. Lyle presented five comparable sales ranging in sales price from \$405,000.00 to \$457,500.00 and in size from 2,525 to 2,876 square feet. No adjustments were made to Petitioner's comparable sales.
3. Mr. Lyle testified that the subject property's lot is smaller than many in the area and has a shallow back yard, that the dated interior of his house and structural problems affect value, and that newer homes in the area bring higher prices.
4. Petitioner testified that the subject's assigned actual value of \$400,320.00 should be much lower than the assigned actual value of \$405,000.00 for 10 Mesa Oak. The property located at 10 Mesa Oak is a newer house on a larger cul de sac site with open space on two sides, and has a fenced yard, a deck and an additional bath.
5. Mr. Lyle testified that the \$4,680.00 difference between the \$405,000.00 sales price of 43 Pin Oak and the \$400,320.00 value assigned to the subject property does not adequately address the fact that 43 Pin Oak was built nine years after the subject property on a larger lot, and has a fenced yard, two decks, and remodeled kitchen.
6. Mr. Lyle presented a list of the subject's deficiencies and 2004 repair estimates: \$9,902.25 to replace the settled driveway; \$1,000.00 to straighten the exterior brick column that has pulled away from the roof; \$6,000.00 to replace the 17-year-old carpet; \$4,000.00 to replace kitchen, bathroom, and laundry room vinyl; \$2,000.00 to paint the house; and \$30,000.00 to upgrade the kitchen. Mr. Lyle did not include any written estimates from contractors and testified that some of the estimates are his own.
7. Petitioner is requesting a 2003 actual value of \$338,320.00 for the subject property based on \$52,000.25 in deferred maintenance and comparison with other homes in the area.
8. Respondent's witness, Ms. Patty Jo White, a Registered Appraiser with the Jefferson

County Assessor's Office, presented an indicated value of \$405,000.00 for the subject property based on the market approach.

9. Ms. White presented three comparable sales ranging in sales price from \$395,000.00 to \$425,000.00 and in size from 2,437 to 2,965 square feet. After adjustments were made, the sales ranged from \$383,900.00 to \$433,800.00.

10. Ms. White testified that adjustments were made for time trending, lot size, age, size of improvements and bathroom count, basement size and finish, garage size, fireplaces, air conditioning, covered porch and balcony, and Jacuzzi. She placed the most weight on Sales 2 and 3, as both sold toward the end of the base period and because Sale 3 is the same floor plan as the subject and Sale 2 is similar in size.

11. Ms. White testified that deferred maintenance is included in age adjustments. She has no knowledge of the physical condition of the comparable sales other than Sale 3's cracked driveway, and she made no separate adjustments for physical condition in her market grid. She testified that covered porch adjustments are not made for less than 50 square feet. She acknowledged that the subject's porch area of 130 square feet could be incorrect, but that correcting the square footage would not affect the indicated value. She made no adjustments for fencing and testified that fencing has no significant effect on sales price and is often dependent on covenants. She acknowledged that she should have made a \$10,000.00 adjustment to Sale 3 to reflect its open space premium, resulting in an adjusted value of \$404,700.00; however, that would not alter the final estimated value of the subject property.

12. Ms. White testified that she applied adjustments to Petitioner's five sales, arriving at an indicated value of \$439,100.00, which is higher than the adjusted values of her three comparable sales. In addition, the \$405,000.00 value indicated by the market approach supports the assigned value of \$400,320.00.

13. Respondent assigned an actual value of \$400,320.00 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 is convinced that the property has deferred maintenance based on the Petitioner's testimony and photographs. The Petitioner provided evidence that there are cracks in the exterior flatwork and that an exterior brick column has pulled away from the roof. These items are considered part of typical property maintenance. The Petitioner also testified to basement settling but provided no evidence from a qualified engineer that structural integrity has been compromised or that the settling is atypical for the area.

3. The Petitioner contends that the condition of the subject property is inferior to others

in the subdivision and that adjustments should have been made in Respondent's appraisal. Neither Petitioner nor Respondent provided evidence indicating that comparable sales were superior or had been updated, and the Board must assume, therefore, that they are in similar condition with no significant updating.

4. The Board applied adjustments to Petitioner's five comparable sales using adjustments similar to those used by Respondent. Adjustments were made for open space and cul de sac locations. The Board made no adjustments for time or for the presence of a "remodeled" kitchen in 43 Pin Oak as no information regarding the extent or quality of the remodeling was presented. The adjusted values of Petitioner's comparable sales ranged from the high \$390,000.00's to the \$430,000.00's, which further supports the subject property's assigned value.

4. Petitioner did not provide any evidence to substantiate that the subject's shallow back yard negatively affects value.

5. Respondent addressed Petitioner's concerns regarding the use of newer properties by making appropriate age adjustments in the market approach.

6. Colorado Revised Statutes require residential properties to be valued based on the market approach. Comparing other properties' assigned values to the subject's assigned value is not a valid method of determining value, nor is comparing a prior year's assigned value to the current year's assigned value.

7. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value 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 September 2004.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins
Rebecca A. Hawkins

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

SEP 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

