

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PATRICK MORRISON,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Patrick Morrison Address: 300 Fairfax Street Denver, Colorado 80220 Phone Number: (303) 866-3585</p>	<p>Docket Number: 43242</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 10, 2004, Karen E. Hart and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Maria Kayser, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**300 Fairfax Street, Denver, Colorado 80220
Denver County Schedule No. 06071-14-020-000**

Petitioner is protesting the 2003 actual value of the subject property, a 1,244 square foot brick house with partially finished basement and two-car garage built in 1949 in the Hilltop area of Denver.

ISSUES:

Petitioner:

Petitioner contends that the subject property was overvalued for tax year 2003, that the trend in the subject area is to purchase for demolition and new construction and that the only value is in the land.

Respondent:

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

FINDINGS OF FACT:

1. Patrick Morrison, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$304,860.00 for the subject property.
3. Mr. Morrison testified that homes in the area are being purchased for demolition and construction, new homes being much larger and of superior quality. He testified, therefore, that the value lies in the land with little regard for the original homes built in the 1930's, 1940's, and 1950's.
4. Mr. Morrison testified that his site was assessed at \$396,400.00 or \$45.00 per square foot. He presented two sets of neighborhood sales for comparison, the first including overall larger homes with 1,502 square feet being the average, the second similar to his 1,244 square feet with an average of 1,228 square feet. The first set of nine have an average land value assessment of \$307,289.00 and price per square foot of land of \$44.76. The second set of seven have an average land value assessment of \$231,400 and price per square foot of land of \$31.00. He testified that the average land assessment in the first set with larger homes is greater than in the second set with smaller homes and, therefore, his land assessment should be compared to the second set at \$31.00 per square foot because his house size is similar.
5. Mr. Morrison testified that his assessed value increased 32% from the previous year in comparison to an average increase of 17% to 19.2% over a two-year period per the Assessor's web site.
6. Mr. Morrison testified that the park across the street from his house is affected by large groups of people related to league play with related traffic, noise, and debris. He testified that the park site should not carry a premium in Respondent's market approach.
7. Petitioner is requesting a 2003 actual value of \$304,860.00 for the subject property.
8. Respondent's witness, James R. Zelensky, a Certified General Appraiser with the

Denver County Assessor's Office, presented an indicated value of \$420,000.00 for the subject property based on the market approach.

9. Respondent's witness presented three comparable sales ranging in sales price from \$420,000.00 to \$430,000.00 and in size from 1,219 to 1,468 square feet. After adjustments were made, the sales ranged from \$408,090.00 to \$427,479.00.

10. Mr. Zelensky selected sales based on their proximity to the subject and their Tudor exteriors. He made adjustments for time trending, the park's premium, condition and updating, size, basement size and finish, air conditioning, and fireplaces. His value was based on an exterior inspection. All sales were weighed in final reconciliation.

11. Mr. Zelensky testified in cross-examination that the area is in transition and includes a mix of older homes and new construction. He testified that land has underlying value, that the subject's improvements have contributory value, and that potential future demolition and new construction will be valued accordingly with like properties.

12. Mr. Zelensky responded to Petitioner's comparison of his land assessment to two sets of sales discussed in Finding of Fact 4. He testified that the homes in these comparisons included a variety of styles, size, updating, location, etc., and that averaging does not address these differences. He further testified that some of the homes in the second set of seven comparables that averaged \$31 per square foot are located outside of the subject's tax-defined neighborhood section affected by different external influences and are not comparable.

13. In cross-examination, Mr. Zelensky agreed that the subject property had experienced a 32% increase in assessed value and that the two assessments were based on market analyses of sales in separate 18-month periods, not on an average increase of assessed values over a 24-month period.

14. Respondent assigned an actual value of \$396,800.00 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 a two-tiered market exists in the subject neighborhood and that there are markets for both older existing homes and for new construction. Respondent's market approach provided sufficient evidence to convince the Board that improvements have contributory value and that many homes in the area continue to be purchased for occupancy, not just for demolition.

3. The value of residential properties must be based on the market approach.

3. The value of residential properties must be based on the market approach. Comparing averaged assessed values, whether land, improvements, or both, is not an acceptable method of establishing market value either in commonly recognized appraisal practice or in state statute.

4. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of the subject property for tax year 2003.

ORDER:

The petition is denied.

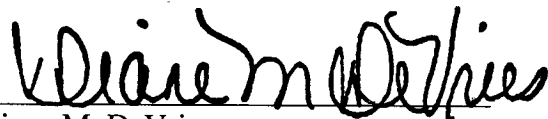
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

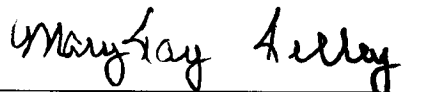
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 22nd day of July 2004.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

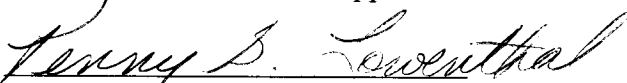


MaryKay Kelley

This decision was put on the record

JUL 21 2004

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Penny S. Lowenthal

