

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner :</p> <p>JOHN H. SWABY AND CYNTHIA M. HUMISTON</p> <p>V</p> <p>Respondent :</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45150</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 8, 2007. Diane M. DeVries and Debra A. Baumbach presiding. Petitioner, John H. Swaby, appeared pro se. Respondent was represented by George Rosenberg, Esq. Petitioners are protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**7242 South Eaton Park Court, Aurora, Colorado
(Arapahoe County Schedule No. 2071-30-4-07-027)**

The subject property is a frame and brick, two-story dwelling, built in 2003. There are 2,441 square feet above grade living area plus a 1,268-square-foot unfinished basement. The subject property is considered to be in good condition. It is located in Tallyn's Reach second filing, a fairly new development with construction starting in 2000, and new construction in progress. The subject property was purchased in a foreclosure process after the builder defaulted in his original loan. The subject property is one of the smallest constructed homes in the market area, with minimal amenities and upgrades.

Petitioners argued the comparable sales used by Respondent in the valuation process are superior in size, style, quality, location, and upgrades. Inadequate adjustments were made for differences in physical characteristics.

Petitioners argued Respondent separated the market area into smaller neighborhood areas. The subject property was grouped with homes that are far superior and reflect higher values. Petitioners presented a cluster analysis, ignoring the neighborhood boundaries set by Respondent, and examined houses within 0.5 miles or less. Additional criteria included similar size, style, and sold within the tax base period. The homes were placed into six categories: custom homes in The Reserve, Ashcroft homes, Writer Homes, Tesoro Homes, Lennar Homes, and Advocate Homes. Petitioners found that the Writer and Lennar Homes fit most of the criteria and should be used in the valuation process.

Petitioners considered the eleven Lennar Homes to be the best comparable sales. Petitioners relied on Arapahoe County Assessor's Sales Ratio Analysis for data on the comparable sales. The mean was taken of the appraised building values of the three homes with square footages of 2,549 and the other seven sales with square footages of 2,570. The indicated building value of the subject property was \$259,862.00. Petitioners added a land value of \$62,500.00, and subtracted \$7,500.00 for no front yard landscaping. The indicated value of the subject property, rounded to the closest \$100.00, was \$314,900.00.

Petitioners are requesting an actual value \$314,900.00 for the subject property for tax year 2005.

Respondent's witness, Merry Fix, Certified Residential Appraiser with Arapahoe County Assessor's office, presented an indicated value of \$375,000.00 for the subject property.

Ms. Fix did an exterior inspection of the subject property March 8, 2007. There were several attempts made to perform an interior inspection, however the homeowner refused.

All of the comparable sales selected share similar characteristics and are located within the same market area. Adjustments were made for all physical differences. Comparable sale one is located right next door to the subject property.

Respondent assigned an actual value of \$353,700.00 for the subject property for tax year 2005.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2005.

The Board is not convinced the comparable sales used by Respondent are far superior to the subject property. Respondent's sales are suitable for comparison. Respondent made adjustments for all physical differences. The subject property is located in the neighborhood's second filing, as are three of the comparable sales. The Board believes that sale one, located next door to the subject property, is the best indication of value. The Board is not convinced the adjustment for quality of

construction was warranted or supported. However, the assigned value takes into consideration any further adjustments warranted for differences in physical characteristics.

The Board placed minimal weight on the sales presented by Petitioners. There was inadequate information regarding the sales to apply proper appraisal methodology to determine how comparable and what appropriate adjustments would be required to determine a value.

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 10th day of July 2007.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

JUL 09 2007

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

Heather Heinlein

Heather Heinlein

