

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOSEPH A. DEL CUETO,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 46484</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 13, 2007, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Eric Butler, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2005.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**20894 Seminole Road, Indian Hills, Colorado
Jefferson County Schedule No. 047214**

The subject property is a 1,179 square foot house built in 1925. It is located on a .219 acre site in Indian Hills, a mountain suburb west of Denver. Respondent assigned a value of \$149,950.00 for tax year 2005. Petitioner is requesting a value of \$121,000.00.

Petitioner researched the county web site to estimate value of the subject property at \$121,000.00. Petitioner did not present comparable sales.

Respondent presented three comparable sales ranging in sales price from \$210,000.00 to \$222,500.00 and in size from 1,047 to 1,249 square feet. After adjustments were made, the sales ranged from \$149,000.00 to \$193,600.00, and a value of \$185,000.00 was indicated.

Indian Hills is comprised of many older homes with dated septic systems. The subject property's system was installed prior to Petitioner's purchase in 1988, and consists of a seepage pit with rocks that surround the hole, but no leach field. A one-acre site requirement by county code prohibits installation of a leach field on the subject property.

Nitrogen from large animal waste and leaking septic systems has caused environmental damage in the area. Effective January 4, 2004, a use permit issued by the Department of Health and Environment is required when properties with individual septic systems transfer ownership. If replacement is required, the Advanced Treatment System, which specifically addresses the nitrogen issue, can be installed by either sellers or buyers. Respondent estimated the cost of a new system to be between \$6,000.00 and \$10,000.00. Petitioner estimated the cost to be between \$18,000.00 and \$25,000.00 due to sloping terrain.

Petitioner contends that the size of his lot prohibits installation of a new septic system, thereby affecting marketability. Respondent contends that the property's size does not prohibit installation of a new system provided it meets county setback requirements. Both parties agreed that due to the age and obsolescence of the current septic system, a sale of the property could not occur without installation of a new system.

The subject property is located within an area of older homes on small lots in which a moratorium on building expansion is in effect for resolution of the septic system issue and compliance with code. Petitioner contends that the septic issue and the moratorium prohibit him from expanding his two-bedroom home. Respondent's witness testified that the current occupancy of the Petitioner's home could not be increased without a permit and installation of a new septic system. Respondent was not convinced that location of comparable properties in or out of the moratorium area affected value, and Petitioner did not present any contradictory evidence otherwise.

Petitioner compared the subject property's actual value to other actual values in the area. Actual values cannot be compared by the Board; residential property value is indicated by market comparison of similar properties with adjustments for unique characteristics.

Petitioner questioned adjustments for land size in Respondent's appraisal but did not present any evidence that comparable sale sites were superior or inferior to the subject and should have been adjusted differently.

Petitioner testified that asbestos is present on the subject property and estimated removal at \$2,000.00. Respondent's witness was not permitted to inspect the property and has no knowledge of asbestos in the subject property.

Respondent presented sufficient testimony and evidence to prove the subject property was correctly valued for tax year 2005. Negative adjustments to Respondent's indicated value of \$185,000.00 of \$25,000.00 for septic system replacement and \$2,000.00 for asbestos removal would indicate a value of \$158,000.00, considerably higher than the assigned value of \$149,950.00.

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.

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 14th day of August 2007.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

AUG 13 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

