

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOLENE OPPAWSKY,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Jolene Oppawsky Address: 2552 Bonner Spring Ranch Road La Porte, Colorado 80535 Phone Number: (970) 472-1806 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38126</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 7, 2001, Judge Nuechter and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Linda Connors, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**NE ¼ OF SE ¼ 15-9-70
(Larimer County Schedule No. R0252328)**

Petitioner is protesting the 2001 actual value of the subject property, a good quality, single-family residence built in 1997 and consisting of 2,404 square feet with a partial finished basement, located on 40 acres north of La Porte, Colorado.

ISSUES:

Petitioner:

Petitioner contends that her assessment increase was too high when compared to other similar properties. She believes her property is overvalued.

Respondent:

Respondent contends that the subject property was correctly valued using sales of similar properties similarly situated from the appropriate time period.

FINDINGS OF FACT:

1. Ms. Jolene Oppawsky, Petitioner, presented the appeal on her own behalf.
2. Petitioner presented an indicated value of \$367,800.00 for the subject property.
3. Petitioner presented 5 comparable sales ranging in sales price from \$329,000.00 to \$435,000.00 and in size from 2,000 to 3,669 square feet. No adjustments were made to the sales.
4. Ms. Oppawsky testified that it was difficult to find comparable sales of frame-constructed properties. Four of her comparable properties are of log construction, and many have barns, sheds, etc. Her Sale No. 4 is her neighbor's property. Sale 5 is larger than the subject and has outbuildings. All of the sales prices are significantly lower than her property valuation.
5. Ms. Oppawsky testified that her property increased in assessment value at a much larger rate than neighboring properties.
6. Ms. Oppawsky testified that the assessor's records had previously listed the size of her property incorrectly. The error was corrected for this hearing, but the value reduction at 6.5% did not correspond to the decrease in square footage of 16%. She believes she is being discriminated against due to her out-of-state address, but pointed out that she lives at the ranch for several months of the year.
7. Under cross-examination, Ms. Oppawsky testified that her photo of the subject was taken in 1997. She admitted that the sales prices of her comparables were not time adjusted.
8. Upon questioning from the Board, Ms. Oppawsky explained that she calculated her requested value by adding \$7,813.00 to her last year's assessment value. This adjustment was the amount of increase given to another similar property.
9. Petitioner is requesting a 2001 actual value of \$367,800.00 for the subject property.

10. Respondent's witness, Ms. Shirley Lindsay, a Licensed Appraiser with the Larimer County Assessor's Office, presented an indicated value of \$436,379.00 for the subject property, based on the market approach.

11. Respondent's witness presented 4 comparable sales ranging in sales price from \$335,000.00 to \$437,034.00 and in size from 1,994 to 2,655 square feet. After adjustments were made, the sales ranged from \$279,828.00 to \$439,748.00.

12. Ms. Lindsay testified that she has inspected the subject property. The property was built in 1997 and was 100% complete in 1999. It is a good quality wood frame dwelling with a 1,268 square foot basement. The property was recently remeasured, and the corrected square footage resulted in a reduced value of \$436,379.00.

13. Ms. Lindsay described her comparable sales. The sales were adjusted for differences in square footage, basement size and finish, garage size, and market conditions. She also clarified that Comparable Sale 1 is not a log constructed home, but is a wood frame home with log-type siding. Comparables 2 and 3 are located in Fort Collins on smaller sites. Comparable Sale 1 is located on a 40-acre site, as is the subject.

14. Ms. Lindsay testified that she analyzed sales of comparable land parcels and arrived at a land value of \$100,000.00 for the subject property.

15. Under cross-examination, Ms. Lindsay testified that she believes the addition added to Comparable 1 is included in the assessor's records. She inspected the comparable property on October 8, 2001; she reclassified the outbuilding as a garage.

16. Upon questioning from the Board, Ms. Lindsay testified that she did not use Petitioner's sales as they were not of the same quality construction or similar in size as compared to the subject. Ms. Lindsay believes her sales are most comparable to the subject property in size, style, and type of construction. She made corrections to her Comparable Sale 1 due to a time adjustment calculation error in addition to the garage reclassification, and arrived at an adjusted sales price of \$439,748.00 or \$186.41 per square foot. She pointed out that the corrected indicated value of Comparable Sale 1 is still higher than the recommended value of the subject property.

17. Respondent assigned an actual value of \$466,600.00 to the subject property for tax year 2001, but is now recommending a reduction to \$436,379.00.

18. In rebuttal, Ms. Oppawsky testified that she does not believe the assessor's records for Respondent's Comparable Sale 1 includes the addition square footage, and she also believes that the barn is not properly classified.

CONCLUSIONS:

1. Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2001.

2. Petitioner's exhibit contained concerns regarding Respondent's use of time-adjusted sales. Ms. Oppawsky felt that this was unfair to the property owner. Basic appraisal practice requires that comparable sales be adjusted to a similar point in time in order to accurately reflect market conditions existing on the appraisal date. For property tax valuation, that date is adjusted every two years. Respondent's witness correctly time adjusted her sales to the June 30, 2000, level of value date as required by Colorado Revised Statutes for the 2001 tax year.

3. Petitioner contended that her assessment was greater than neighboring properties, and that her valuation increase was much greater than her neighbors. The Board reviewed the assessment list presented by Petitioner on the second page of her page 5 of 8 in Exhibit A. Seven of the properties highlighted by Petitioner on the page had assessed values near to or higher than the subject property. Sixteen properties had similar to or larger increases in valuation than the recommended reduced value of the subject property. The Board finds no compelling evidence that Ms. Oppawsky's property was singled out for a greater increase in valuation than other properties on her list.

4. The Board reviewed Ms. Oppawsky's five submitted comparable sales. The Board could give no weight to Petitioner's Sale 4, as there was no data regarding the physical characteristics of the sale; therefore, adjustments for such differences as compared to the subject property could not be made. The Board adjusted the remaining comparable sales for differences in market conditions (time adjustment), age, construction type, square footage, basement size and finish, garage spaces, outbuildings and land size differences. Comparable 5 was much larger than the subject, and the adjustments were too large to allow consideration of the sale as a good comparable. The remaining three sales had a resulting adjusted value range of \$452,400.00 to \$476,479.00. These sales support a higher value than Respondent's recommended reduced value of \$436,379.00.

5. Respondent's recommended reduced value is well supported by Petitioner's comparable sales. The Board concluded that the 2001 actual value of the subject property should be reduced to Respondent's recommended value of \$436,479.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$436,479.00.

The Larimer County Assessor is directed to change his records accordingly.

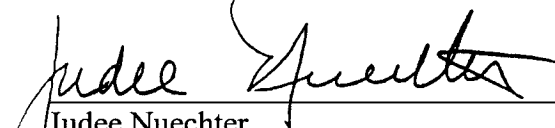
APPEAL:

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

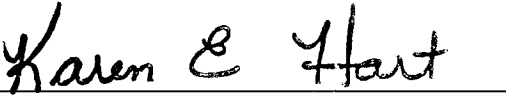
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 26th day of November, 2001.

BOARD OF ASSESSMENT APPEALS



Judee Nuechter




Karen E. Hart

This decision was put on the record

NOV 19 2001

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



Diane Von Dollen

