

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ALEXANDER VON PICHL,</p> <p>v.</p> <p>Respondent:</p> <p>ELBERT COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Alexander Von Pichl Address: 35253 County Road 17 Elizabeth, Colorado 80107 Phone Number: (303) 688-8113</p>	<p>Docket Number: 38247</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 20, 2002, Rebecca A. Hawkins and Debra A. Baumbach. Petitioner appeared pro se. Respondent was represented by George Rosenberg, Esq., Special Assistant County Attorney.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Rurala-Rurala
R:64 T:08 S:06 Q:NE B:000 L:0000 K:0
Parcel of Land in SW4NE4:NW4SE4:
SE4NW4:NE4SW4: 6 8 64 INCS N 40'
Of NE4SE4 (1.21 A) 36.8 A
Desc B 459 P233 AKA Parcel E
(Known as 35253 Co. Rd. 017)
(Elbert County Schedule No. 107840)

Petitioner is protesting the 2001 actual value of the subject property, a split- level design, constructed in 1993 with approximately 5,070 square feet. The residence is situated on approximately 36.8 acres.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. The Respondent did not consider the affects of the flooding to the subject in the last assessment period.

Respondent:

Respondent contends that the subject has been correctly valued using the sales comparison approach. All the factors affecting the overall value have been addressed.

FINDINGS OF FACT:

1. Mr. Alexander Von Pichl, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$273,764.00 for the subject property.
3. The Petitioner did not present any comparable sales to indicate a value based on the market approach.
4. The Petitioner testified the subject property was damaged as a result of a flood that occurred in July of 2000. There was six inches of water that ran into the house, the fence around the property has several areas that were washed away. There was also damage done to the barn. The Respondent does not indicate the subject property to be in a flood zone and did not consider any of the damage to the property in the last assessment period.
5. Petitioner's witness, Mr. Penewell, testified he had been employed as a road and bridge superintendent with Elbert County and was familiar with the flooding. Mr. Penewell testified there is a culvert located under County Road 13, which is located close to the subject property. The culvert could not handle the water levels, therefore flooding out part of the road and running through the subject property.
6. Under cross-examination Mr. Penewell testified there is a natural drainage area located 50' to 100' feet from the subject property. At the time of inspecting the subject there was no standing water. The drainage comes from a nearby subdivision and no flooding occurred within this area. One of the homeowners complained of water on the roads, however not to any of the structures.
7. Petitioner is requesting a 2001 actual value of \$273,764.00 for the subject property based on the 2000 assessment level.
8. Respondent's witness, Mr. Robert Harper, an appraiser with the Elbert County Assessor's Office, presented an indicated value of \$422,240.00 for the subject property, based on the market approach.

9. Respondent's witness presented three comparable sales ranging in sales price from \$269,000.00 to \$495,000.00 and in size from 2,026 to 4,356 square feet. After adjustments were made, the sales ranged from \$406,060.00 to \$462,972.00.

10. Mr. Harper testified the subject has an agricultural classification, therefore can only be valued by its income producing capabilities. The carrying capacity of the subject was estimated to be 40 acres per animal. The Net Income was determined to be \$17.45 per acre, actual value resulting in a value of \$642.00 for the subject. Adjustments were made to all of the comparable sales for any differences in characteristics. The subject property was considered to be located in Economic area 2. This area has an increased level of development compared to other areas in the county.

11. Mr. Harper testified that Elbert County does not participate in F.E.M.A.; however, a study was done between Elbert County and the Colorado Water Board indicating the 100-year flood prone areas. It was determined that the subject is located within the 100-year flood prone area. He was employed with Elbert County during the flooding. There were several properties affected by the flooding and County Road 13 was washed out. There were no properties there were revalued as a result of any damages by the flooding.

12. Mr. Harper testified the subject's assigned value takes into consideration any factors affecting the overall value. The assigned value is well below the selling price of the subject and is well below sales within the area.

13. Respondent assigned an actual value of \$298,706.00 to the subject property for tax year 2001.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001

2. The Board carefully considered all admitted evidence and testimony and has affirmed the Respondent's value. The Respondent presented three comparable sales supporting the assigned value conclusion. The methodology used for the valuation of the outbuildings and land value were documented and well supported. The adjustments made to the comparable sales are reasonable and take into consideration any differences in physical characteristics.

3. The Petitioner's presented photos of the damage to the subject as a result of the flooding. However, there were no repair estimates or any professional opinion of what a fair and equitable adjustment should be for the damage. There was no evidence or testimony presented that any other structures in the market area were affected by the flooding. There was no documentation presented supporting any adverse influences from the flood impacting overall market values in the direct market area. The Petitioner testified the subject property was purchased during the base period. It is usually a requirement for typical financing and insurance purposes that professional documentation be provided, indicating if the property is located within a flood zone. There was no evidence or testimony from the Petitioner or Respondent that the subject is located within flood zone requiring special flood insurance.

4. The Board can sympathize with the effects of the flooding to the subject property. The Board also notes that the current assigned value is well below the valuation conclusions presented in the Respondent's appraisal and the purchase price of the subject.

5. The assigned value takes into consideration any factors affecting the subject property. The assigned value is well documented, supported and is affirmed based on the evidence provided to the Board for consideration.

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 19th day of December, 2002.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

DEC 18 2002

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

38247.03.doc

