

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID M. SHALES,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	<p>▲</p>
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: David M. Shales Address: 2905 Hermosa Court Grand Junction, Colorado 81504 Phone Number: (970) 255-5827 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38628</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 14, 2002, Karen E. Hart and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Valerie J. Robison, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 14 KAREN LEE SUB 1ST ADD SEC 5 1S 1E
(Mesa County Schedule No. 2943-053-18-014)**

Petitioner is contesting the valuation of the subject property for tax year 2001. The subject consists of a single-family residence located at 2905 Hermosa Court, Grand Junction, Colorado. The ranch-style dwelling was built in 1979, has 1,704 square feet, and a two-car garage.

ISSUES:

Petitioner:

Petitioner contends that the sales used by the Mesa County Assessor were not appropriate and overlooked the deficiencies of his dwelling that resulted in an overvaluation of his property.

Respondent:

Respondent contends that the subject property was properly valued for the base period using the market approach with appropriate adjustments. The appraisal report prepared by the assessor's office for this hearing indicated a higher value than what the Respondent is requesting for the subject property.

FINDINGS OF FACT:

1. Mr. David M. Shales, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$95,000.00 for the subject property.
3. Petitioner presented no comparable sales for the Board's consideration.
4. Petitioner testified that the Respondent's appraisal report had some inaccuracies. His property is not in Redlands and is north and east of downtown, not west of downtown. Wingate Elementary Schools is 10 miles from the subject property, not two miles as indicated by Respondent. Redlands Middle School is 9 miles from the subject and not one mile. The interior conditions are indicated as average in the Respondent's appraisal report, although the Petitioner feels this is inaccurate. His dwelling needs interior and exterior paint, the doors are scratched from the previous occupant, and the carpets need to be replaced. The Petitioner does not feel his property is marketable at the value indicated by the Respondent.
5. The Petitioner presented a \$4,499.00 estimate to repair the roof of his dwelling if undiscovered damage is present. The carpet is 23 years old and needs to be replaced. He presented a \$7,297.00 estimate to replace the carpet. The house has not been repainted on the interior since it was built and needs painting. The wallpaper, the drywall, the doors, and interior trim need to be painted at an estimated \$3,495.00. The exterior siding of the dwelling is chipping and peeling with an estimate for \$2,060.00 for exterior painting. There is also extensive damage to the windows and frames, as well as the drywall. The fence has broken and he has received estimates for \$4,200.00 to \$4,800.00 for fence replacement. The concrete sidewalk has cracked adjacent to the dwelling and in the driveway with \$800.00 to \$2,000.00 estimated for repair. Mr. Shales discussed these issues with the Respondent's appraiser, Mr. Truman Haley. Petitioner testified that because of the deferred maintenance of his property, it should be valued lower than the Respondent has assigned. In 2001 the roof was replaced at \$6,200.00, and Mr. Shales maintains that he continues to have water damage in the family

room due to condensation from the interior ceiling beams. The Respondent's valuation does not accurately reflect the real valuation of his dwelling due to its deficiencies.

6. Under cross-examination, the Petitioner testified that he purchased the property in December 1987. He painted the exterior of the dwelling, and has only cleaned the carpets since his purchase. He landscaped the yard with shrubbery, replaced the bath and shower stall walls and the floors of the master bath.

7. During questions from the Board, the Petitioner testified that he has tried to repair the water condensation problem but it was not successful, although this procedure was done after the base period. The sidewalks on the east side of dwelling are broken and leaning away from the house, while the sidewalks on the front of the dwelling are leaning into the house. Mr. Shales feels the sidewalks were not installed properly when his house was built. He testified that he thinks he has water damage from the sidewalk problem. He has never seen pools of water, although there appears to be a higher incidence of moisture in the crawl space than is typical for this climate. The roof problem is sporadic and does occur every year.

8. Petitioner is requesting a 2001 actual value of \$95,000.00 for the subject property.

9. Respondent's witness, Mr. Truman Haley, a Licensed Appraiser with the Mesa County Assessor's Office, presented an indicated value of \$126,000.00 for the subject property, based on the market approach.

10. Respondent's witness presented three comparable sales ranging in sales price from \$105,000.00 to \$130,000.00 and in size from 1,366 to 1,680 square feet. After adjustments were made, the sales ranged from \$115,000.00 to \$131,500.00.

11. Mr. Haley testified that the subject property neighborhood boundaries were in error in his report but that it does not affect the appraisal value. The overall average condition rating of the subject property reflects a typical 1979 vintage dwelling, and that the condition was determined from an exterior inspection prior to the appraisal report. Mr. Haley testified that he had stopped by the subject property numerous times to do an interior inspection, and that the Petitioner was not home on any of those occasions. An inspection date was set by the Petitioner for Mr. Haley to inspect the interior of the subject property on March 10, 2002. Mr. Haley testified that, at that time, he gave the subject property a 5 percent deduction for the deferred maintenance based on the Petitioner's information. The \$120,000.00 value assigned by the Respondent reflects the deferred maintenance that the subject property experienced during the base period. He found the subject property to be comparable to other dwellings in the neighborhood with the exception of the water damage in the living room and the need for exterior painting.

12. Respondent's witness testified that he used \$30.00 a square foot adjustment for gross living area to the comparable sales. Sale 3 had original carpeting in the bedroom; whereas, the subject property had all original carpeting. Sale 2 also has driveway deterioration due to swelling, which he thinks is typical of most homes of the subject's vintage. Mr. Haley felt his experience in the area and his inspection of the property enabled him to properly determine the appraised value of the subject property.

13. Under cross-examination, the Respondent's witness testified that the 5 percent adjustment he assigned the subject property for deferred maintenance is an arbitrary adjustment for the cost to cure. He does not know how much it would actually cost to repair the deferred maintenance of the subject property.

14. Under questioning from the Board, Respondent's witness testified that valid estimates to repair the deferred maintenance items would need to be presented by the Petitioner, and then it would be a judgment call by the Respondent. The estimates for repairs might be accepted by the Respondent if they are from a reputable company.

15. Respondent assigned an actual value of \$120,000.00 to the subject property for tax year 2001.

16. During a rebuttal question from Board, Mr. Shales testified that Sale 1 was smaller in size and immaculate prior to the sale with good pride of ownership. He does not feel this sale is comparable to the subject property.

CONCLUSIONS:

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

2. The Board has carefully considered all admitted evidence and testimony and was most persuaded by the Petitioner based on his photos and testimony of the deferred maintenance of the subject property with estimates for repair.

3. The Board believes that Sale 1 was the most influential sale due to its location adjacent to the subject property and its similar amenities to the subject property. With the exception of the condition rating, the appropriate adjustments appear to have been made to this sale by the Respondent. The adjusted value of \$115,000.00 for Sale 1 more accurately represents the value of the subject property during the base period than the other two sales presented by the Respondent, with the exception of an appropriate condition adjustment. The Petitioner testified that Sale 1 was immaculate at the time of sale as compared to the deferred maintenance associated with his property.

4. The Board was not persuaded by the Respondent's witness that a 5 percent adjustment for deferred maintenance was appropriate or sufficient for the subject property. The Board feels a stronger deduction for the deferred maintenance should be assigned the subject property.

5. The Board concluded that the 2001 actual value of the subject property should be reduced to \$110,000.00.

ORDER:

Respondent is ordered to reduce the 2001 actual value for the subject property to \$110,000.00.

The Mesa 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 29th day of March, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Judee Nuechter
Judee Nuechter

This decision was put on the record

MAR 28 2002

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

Diane Von Dollen
Diane Von Dollen



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