

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GORDON M. PEDERSEN,</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: Gordon M. Pedersen Address: 2031 Mall Road Estes Park, CO 80517 Phone Number: (970) 577-8687 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 38896</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 12, 2001, Karen E. Hart and Mark R. Linné presiding. Petitioner, Gordon M. Pedersen, appeared pro se. Respondent was represented by Linda K. Connors, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

POR OF NW ¼ NW ¼ 31-5-72 DESC: BEG AT PT ON N LN SDNW ¼ NW ¼ FROM WH NE COR BEARS S 88 16'05" E 116.07 FT, TH N 88 16'05" W 332.62 FT, S 0 26' W 676.22 FT, N 85 13'E 110.41 FT, N (Larimer County Schedule No. R0563200)

Petitioner is protesting the 2001 actual value of the subject property. The subject is a residential single family dwelling, more particularly described as a cabin, of frame construction. The property consists of 1,052 square feet, and was constructed in 1941. The property is situated on a site that comprises 4.28 acres. The property is situated at 801 Concord Lane, in Estes Park, Colorado.

ISSUES:

Petitioner:

The Petitioner contends that the subject property, an older cabin in Estes Park, built in 1941, is configured as a summer property. The property is basically a summer cabin rather than a house. The property has been valued as a year-round house, and this has caused it to be inappropriately valued. The property is also in a perpetual trust that inhibits its value.

Respondent:

The Respondent contends that they have appropriately applied all applicable approaches to value. The current valuation should be affirmed. The fact that the property is in a trust has no impact on value. The trust does not provide a prohibition in sale, only a right of first refusal to any sale agreement.

FINDINGS OF FACT:

1. Mr. Gordon M. Pedersen, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$100,000.00 for the subject property.
3. The Petitioner testified that the subject property is owned by a family trust that does not allow for the sale of the property. It is located in a family compound, which presents an additional challenge. No one wants to live in a family compound. The assessor has previously considered a diminution in value to 50% of market value.
4. The witness testified that the trust precludes the sale of the property, and the property is now beneficially owned by more than 100 children and grandchildren. The Petitioner is the trustee of the trust.
5. The witness testified that the condition of the property was somewhat primitive. As an example, the witness described some of the interior elements. The bathroom is in poor condition and has no utility room.
6. The witness testified that the property should be valued at \$95.00 per square foot. He has the building insured for \$83,000.00, recognizing that the land would not burn.
7. The Petitioner testified that he could find only one sale that occurred during the base period. The sale is of more recent construction. The property is heated by a wood-burning stove, and thus he felt the property was more comparable than the properties presented by the Respondent.

8. The witness testified that the assessor had previously applied a 10% deduction for obsolescence and a 15% deduction for quality of workmanship against the property.

9. In response to cross-examination, the Petitioner testified that the cabin was purchased by his parents for their heirs. His parents had lived there. They would only live there in the summer. This property was kept in a trust.

10. The witness admitted that the sale of the property is not prohibited by the terms of the trust, though it is discouraged. If the property is sold, the family has the right to purchase at the sale price. This would require the assent of all of the heirs.

11. In response to questions from the Board, the Petitioner testified that the subject is a portion of a larger 30-acre parcel. The remainder of the parcel is owned by other members of his family. His sister is presently subdividing her owned land. His brother's home adjacent to the subject parcel is presently offered for sale as well.

12. Petitioner is requesting a 2001 actual value of \$100,000.00 for the subject property.

13. Respondent's witness, Linda L. Arnett, a Colorado Certified General Appraiser Larimer County Assessor's Office, presented an indicated value of \$145,400.00 for the subject property based on the market approach.

14. Respondent's witness presented four comparable sales ranging in sales price from \$150,000.00 to \$190,000.00 and in size from 759 square feet to 964 square feet. After adjustments were made, the sales ranged from \$179,970.00 to \$211,040.00.

15. Ms. Arnett testified that the subject property has a wooden floor with a stone foundation. The property is classified and valued as a cabin.

16. In describing the subject's location, the witness testified that many of the parcels adjacent to the subject that are owned by individual family members either presently have homes constructed upon them or are having homes built at the present time.

17. The witness testified that there is a fire hydrant at the intersection of Concord Lane and Prospect Mountain. Additionally, public utilities are available to surrounding subdivisions, and the subject is served by electric service. The subject presently has well water, a septic system, propane heat, and electricity.

18. Ms. Arnett testified that the comparable sales that she considered were all of properties with similarly challenging utility characteristics, some of which were described as more primitive in comparison to the subject.

19. The witness testified that adjustments were made to the sales for differences in square footage. The subject site is larger than all of the comparable sales, and no adjustments were made for land size in an effort to be conservative and recognizing that each of the comparable sales represents a buildable site.

20. Ms. Arnett testified that the age of the comparable sales range from 1935 to 1965. She feels that the comparables are all good comparables from a perspective of age and condition.

21. The witness testified that she made no location adjustments for three of the four comparables, and made an upward adjustment for the most distant comparable.

22. The witness testified that she considered age/quality adjustments, and made these adjustments as appropriate.

23. After the application of all of the adjustment factors, the witness testified that the time adjusted sales price for the comparable sales ranged from \$179,970.00 to \$211,040.00. The current valuation assigned to the subject is lower than all of the sales considered in the appraisal analysis.

24. In discussing the comparable sale provided by the Petitioner, the witness testified that this comparable is newer than many of the sales that she utilized. Additionally, there is significant variation in size, though similar to the variation that her sales exhibited. The comparable has a smaller site size. She has time adjusted the sales price based on the same criteria as she used in her appraisal, and this would indicate a value of \$136,141.00. Making adjustments for differences in size would result in an addition of \$20,708.00. After considering these adjustments, the adjusted sales price would be indicated as \$156,848.00.

25. The witness admitted under cross-examination that the bedroom count could be incorrect, but this would not impact value.

26. The witness testified that the comparables she utilized did not have furnaces, and the properties were therefore classified as cabins, not year-round residences.

27. The witness testified that the market approach must be used in the valuation of summer cabins, and at the present time the market is fairly strong in Estes Park.

28. Ms. Arnett testified that she did not deduct for the cost to extend water to the subject given that the property is under the valuation indicated by the comparable sales, all of which had certain challenges with respect to the availability of water, and other utilities, including circumstances that included shared water for one of the properties.

29. The witness testified under redirect examination, that she does not see a limitation of marketability for the subject. The property is such a large parcel and is so well located that it would likely have no problem selling.

30. Respondent assigned an actual value of \$145,400.00 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 has carefully considered all admitted evidence and testimony and has affirmed the Respondent's value. The Respondent presented four comparable sales supporting the assigned value conclusion. The adjustments made to the sales are reasonable and take into consideration any differences. The Board notes the difficulty in finding comparable sales that have similar physical and locational characteristics. Given this difficulty, the Respondent was able to identify sales that were capable of providing reasonable insight into the nature of value as it pertained to the subject.

3. The Board could give little weight to the one comparable sale presented by the Petitioner. The sale was presented without any adjustments, and its insight into value was therefore limited.

4. The Board does not consider the ownership of a property in the determination of value. All properties are valued with respect to the fee simple ownership interest. There is nothing precluding the sale of the subject property.

5. The Respondent's assigned value does take into consideration all of the factors affecting the overall valuation. The assigned value is supported and is affirmed based on the evidence and testimony presented 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 31st day of January 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E/Hart

Mark R. Linne
Mark R. Linne

This decision was put on the record

JAN 30 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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