

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>M. S. UBEROI,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: M. S. Uberoi Address: 819 Sixth Street Boulder, Colorado 80302 Phone Number: (303) 442-2879</p>	<p><b>Docket Number: 39744</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 31, 2002, Debra A. Baumbach, Karen E. Hart and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Robert Gunning, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Lot 8 Spackmans known as 819 6<sup>th</sup> St  
(Boulder County Schedule No. 0008370 01)**

Petitioner is protesting the 2001 actual value of the subject property, a split level home containing 1,449 square feet of living area, built in 1957, with extensive use of wood, brick and glass on the exterior.

**ISSUES:**

**Petitioner:**

Petitioner contends that the subject property has been overvalued and Respondent failed to recognize the negative effect of the twelve unit condominium located across the street; that 6<sup>th</sup> Avenue is a thoroughfare and traffic is heavy; of the fourteen comparable sales presented by Respondent, nine were outside of the base period and other irregularities are noted in the valuation.

**Respondent:**

Respondent contends that the subject property is located in an exclusive area, close to downtown, on a 20,800 square foot site and has been correctly valued using sales of the most similar properties. Of the six comparable sales, two sales were either demolished or substantially remodeled after the sale. The value is nearly the same as the land.

**MOTIONS:**

Petitioner presented several motions and the Board believes the record adequately reflects the Board's position regarding the majority of the motions. However, the Board believes that further clarification is necessary for Petitioner's motion regarding the Rule 11 ten-working-day exchange of documentation. The Board acknowledges that the Board's Rule 11 does state that there is to be an exchange of documentation at least ten working days prior to the hearing and that the notice mailed to each party indicated a deadline comprised of only nine working days due to the Martin Luther King holiday. However, the Board was not convinced that this discrepancy of one day was significantly prejudicial to either party.

**FINDINGS OF FACT:**

1. Mr. M. S. Uberoi, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value range of between \$321,000.00 and \$390,000.00 for the subject property.
3. Petitioner presented four comparable sales ranging in sales price from \$275,000.00 to \$355,000.00 and in size from 440 to 1,701 square feet. No adjustments were made except for time trending as supplied by Respondent. After adjustments for time, the sales ranged from \$277,800.00 to \$388,400.00.
4. Mr. Uberoi testified the subject was an experimental house; the roof is "V" shaped so the water drains towards the center of the house and does not run off well; the home has fixed windows which is inexpensive construction and not a well engineered design home, all of which should decrease its value.
5. Mr. Uberoi testified the immediate area is not an exclusively single family

neighborhood since there is a twelve-unit condominium across the street from the subject property, with no off street parking and during summer months there is additional noise due to loud music.

6. Mr. Uberoi described the comparable sales from Petitioner's Exhibit A. Comparable Sale #1 at 1070 Grant Street contains 1,400 square feet and has a time trended sale price of \$358,600.00, Comparable Sale #2 at 960 8<sup>th</sup> Street, contains 1,701 square feet and has a time trended sale price of \$388,400.00, Comparable Sale #3 at 1057 8<sup>th</sup> Street contains 1,044 square feet and has a time trended sale price of \$381,600.00, Comparable Sale #4 located at the corner of 8<sup>th</sup> Street contains 440 square feet located across the street from a cemetery has a time trended sale price of \$277,800.00. This sale, he testified would indicate a land value of \$274,000.00, making the value of his site \$321,000.00.

7. Mr. Uberoi personally examined the exterior of Respondent's comparable sales shown in Petitioner's Exhibit F and G-1, testifying that 709 Baseline and 740 Juniper were not sold within the base period and that all three comparable sales are of better construction than his home. As to Respondent's comparable sales shown in Petitioner's Exhibits J, K, L-1 and L-2, Mr. Uberoi testified that 777 Willowbrook was outside the base period, was not on a through street and construction was superior to his. 1015 Rose Hill is on a winding street with a speed bump and is superior in construction. 815 Circle Drive is at the end of the City of Boulder and next to a greenbelt. 1005 Gilbert is on a dead-end street with no traffic and near a park and is superior in engineering. 740 Juniper is 3.5 miles away and not an appropriate neighborhood. Of the six comparable properties only two, 1015 Rose Hill and 815 Circle Drive sold within the statutory period.

8. Petitioner is requesting a 2001 actual value of \$380,000.00 to \$390,000.00 for the subject property.

9. Respondent's witness, Ms. Rachel Watts, an appraiser with the Boulder County Assessor's Office, presented an indicated value of \$825,000.00 for the subject property, based on the market approach.

10. Respondent's witness presented six comparable sales ranging in sales price from \$625,000.00 to \$900,000.00 and in size from 876 to 2,359 square feet. After adjustments were made, the sales ranged from \$800,000.00 to \$897,935.00.

11. Ms. Watts testified that interior inspection was denied by the Petitioner but she had seen the exterior on three or four occasions. She considers the subject to be of average quality and in fair condition. The 20,800 square foot site is slightly elevated and located in the Flagstaff neighborhood, an area desirable for rebuilding or renovations of the 1950's and 1960's built homes.

12. Ms. Watts described the subject property being a neighborhood within a neighborhood. It is located on the west side of 6<sup>th</sup> Avenue, which has larger lots than those east of 6<sup>th</sup> Avenue and has an unobstructed view of the flatirons.

13. Respondent's witness testified she did not feel the condominium had an effect on value since it blends into the neighborhood; she did not notice parked cars on 6<sup>th</sup> Avenue and this street is not considered busy since it is not a divided road, there are no dividing lines or traffic lights,

and 9th Avenue would be considered the major commuter road.

14. Ms. Watts described the sales, testifying that Comparable Sale #1 is two lots away from the subject, similar in design and view but is a larger home; Comparable Sale #2 was similar in quality, age, view and in close proximity to the subject. It is an older sale but within the 5-year base period and used due to the limited number of similar sales available; Comparable Sale #3 was near the subject, has similar views but better quality and remodeled after the purchase; Comparable Sale #4 is near the subject and similar in size; Comparable Sale #5 is near the subject, similar in size, fair quality, had a higher elevation but backs to heavily traveled Flagstaff Road and was demolished after the sale; Comparable Sale #6 is 3.5 miles from the subject and was purchased for demolition and was under contract as of June 20, 2000.

15. Ms. Watts had reviewed Petitioner's comparable sales testifying that none were comparable to the subject and were on smaller sites, between 5,800 to 6,250 square feet and the views were not as desirable.

16. Respondent assigned an actual value of \$772,000.00 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 could place little weight on Petitioner's market approach. Although Petitioner presented four comparable sales the only adjustment was time trending. The Petitioner did not follow any accepted appraisal principals required to form an opinion of value. Some elements of comparison, for instance, include financing, conditions of sale, market conditions, location, physical characteristics and other characteristics. Pictures of comparable sales would have been helpful for the Board to see similarities between sales and the subject.

3. Based on testimony, the Board agrees with Petitioner that construction and quality of the subject property may be fair with deficiencies in design, including a lack of maintenance, but the Board would have welcomed pictures showing the various areas of concern which would have helped or supported the Petitioner's position.

4. Numerous factors are considered when a neighborhood is defined and the Board agrees with Respondent that the subject is located in a superior area within the defined neighborhood. Based on maps in Respondent Exhibit's 1 and 2, it is obvious to the Board that Respondent's choice of sales, with regard to site size, more closely compare to the subject property than those offered by Petitioner. As to the possible negative influence being located across the street

from a twelve-unit condominium, the Board was not swayed by either Respondent or Petitioner due to the lack of additional support such as pictures of the street, condominium or traffic count.

5. The Board agrees with Petitioner that some of Respondent's comparable sales were

outside the statutory 18-month period. When limited sales similar to the subject are not available, sales within a five-year period are allowed and it would be reasonable to use and adjust for supported market differences. Petitioner's comparable sales, while within the base period, seem to have greater characteristic differences requiring more and greater adjustments than Respondent's sales. Without additional information, including pictures of Petitioner's sales, the Board is not convinced they are the best available.

6. The Board finds the Respondent's sales most compelling. The assigned value takes into consideration factors which affect the valuation and is supported by market sales.

7. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$772,000.00.

**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.

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 \_\_\_\_ day of February, 2003.

DATED and MAILED this 2/5<sup>th</sup> day of February, 2003.

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach  
Debra A. Baumbach

Karen E. Hart  
Karen E. Hart

Steffen A. Brown  
Steffen A. Brown

This decision was put on the record

FEB 21 2003

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

