

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 <hr/> Petitioner: DAVID DIAMOND, v. Respondent: ARAPAHOE COUNTY BOARD OF EQUALIZATION.		
Attorney or Party Without Attorney for the Petitioner: Name: David Diamond Address: 4207 Hudson Parkway Englewood, Colorado 80110 Phone Number: (303) 639-9455	Docket Number: 40963	
ORDER		

THIS MATTER was heard by the Board of Assessment Appeals on July 8, 2003, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by George Rosenberg, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4207 South Hudson Parkway, Englewood, Colorado
(Arapahoe County Schedule No. 2075-06-4-15-033)**

Petitioner is protesting the 2002 actual value of the subject property, a stucco ranch style home consisting of approximately 6,013 square feet. There is a small finished basement below the attached garage. The subject was originally built in 1968 and renovated in 2001.

ISSUES:

Petitioner:

Petitioner contends that the subject has been overvalued. The comparable sales used by the Respondent to value the home are superior to the subject. The adjustments made to the sales for any differences are aggressive and support a higher value.

Respondent:

Respondent contends that the subject property has been correctly valued. The subject was virtually scraped-off and rebuilt. The comparable sales used are the most similar to the subject in size, style and market appeal. These are the best sales available and adjustments were made for all differences in physical characteristics. All of the factors affecting the subject were addressed.

FINDINGS OF FACT:

1. Mr. David Diamond, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$900,000.00 for the subject property.
3. Petitioner presented five comparable sales ranging in sales price from \$700,000.00 to \$900,000.00, and in size from 3,596 to 6,321 square feet. After adjustments were made, the sales ranged from \$521,360.00 to \$997,440.00.
4. Mr. Diamond testified that he selected five comparable sales that he considered to be more suitable comparisons to the subject. The sales selected are all within closer proximity to the subject, and adjustments were made for differences in physical characteristics. Comparable sale #1 is considered to be the most similar sale. This sale has been renovated and is similar in age. The lot is larger and has a similar fixture count. Comparable sale #2 was used by the Respondent as well. This sale was remodeled around the same time as the subject. This sale is located on a corner lot and is smaller. Comparable sale #3 is a ranch style home and is similar in size. The Respondent reported this sale as a two-story; however, it is a ranch style home. Comparable sales #4 and #5 were considered suitable sales and very similar to the subject.
5. Mr. Diamond testified that the subject was in very poor condition at the time it was purchased. A lot of work needed to be done and a substantial amount of money spent to improve the property. The workshop area does not have the same degree of finish as the rest of the living area, yet the Respondent valued it at the same rate as the rest of the living area.

6. Under cross-examination, Mr. Diamond testified that he is a real estate developer and builder and is familiar with building and remodeling costs. The adjustments he made to his comparable sales were based upon cost figures.

7. Petitioner's witness, Ms. Becky Krone, Certified Residential Appraiser, testified that she reviewed the comparable sales presented by the Respondent. In her opinion, the adjustments made to the comparable sales are very aggressive. Several of the sales used are not considered to be the most suitable sales and required too many adjustments.

8. Ms. Krone testified that Respondent's sale #1 is a much smaller home and not considered to be a suitable sale. Respondent's sale #6 is not considered to be from the same market area and should be eliminated. Although the overall square footage of Respondent's sale #6 is similar to the subject, it is located on 2.48 acres, requiring a large site adjustment, and is located in a much more desirable area.

9. Ms. Krone further testified that it is difficult to find comparable sales within the market area that have similar square footage. The subject was built in 1968 and remodeled in 2001. The subject's living room is 704 square feet, much larger than other homes in the area. There is a functional problem in the utility of the living room and there is no market recognition for having a large living room. The workshop area does not have the same quality level as the rest of the home.

10. Ms. Krone testified that she believes the adjustment calculations should be different. The Respondent adjusted for condition and age difference. She believes there should only be an adjustment for either age or condition. Based upon the degree of renovation to the comparable sales, the condition adjustment would indicate a range of \$25,000.00 to \$75,000.00. The workshop and play area should not be valued at the same amount as the rest of the living area. The Respondent adjusted the garage space on a square footage basis. Typically, potential buyers will not pay more for additional garage square footage. The adjustments made to the sales for the basement area and finish are considered to be minimal based upon the market area.

11. Ms. Krone testified that all the homes in this area were built in the 1960's and many of them have been renovated. It is very common in this area for potential buyers to purchase these homes and renovate, remodel or scrape-off. This is an older established area with high desirability and there are no empty lots available for building sites.

12. Under cross-examination, Ms. Krone testified that she is familiar with the market area. The area consists of varying degrees of high-end residential properties. There is a considerable difference between a raised home versus a newly constructed home. The subject was purchased two years ago and inspected one year ago. A walk-through of the subject was done in 2003.

13. Petitioner is requesting a 2001 actual value of \$900,000.00 for the subject property.

14. Respondent's witness, Ms. Merry Fix, Certified Residential Appraiser with the Arapahoe County Assessor's Office, presented an indicated value of \$1,020,000.00 for the subject property based on the market approach.

15. Respondent's witness presented six comparable sales ranging in sales price from \$525,000.00 to \$1,150,000.00, and in size from 2,312 to 5,468,000 square feet. After adjustments were made, the sales ranged from \$951,265.00 to \$1,019,571.00.

16. Ms. Fix testified that the first three comparable sales are located within the subject's neighborhood. Three comparable sales directly from the subject's neighborhood were used, three sales from a nearby competing neighborhood were used, and one sale located three miles away from the subject was used. Adjustments were made to the comparable sales for any differences in physical characteristics. The adjustment calculations were based on regression analysis.

17. Ms. Fix testified that she considered the actual age of the subject to be 2001. The subject was originally built in 1969, and after the degree of renovation made to the subject, it was considered to be a new structure. The original foundation was intact, but everything else was new.

18. Ms. Fix testified that she, Mr. Diamond and Mr. John Williams met on February 19, 2003, to discuss the improvements made to the subject property. It was her understanding that Mr. Diamond had spent \$375,000.00 on improvements. Added to the sales price of \$715,000.00, there is a total of \$1,100,000.00 into the property. Mr. Diamond was asked to schedule an on-site inspection with the Arapahoe County Assessor's office to verify the amenities listed for the property. No on-site inspection was performed.

19. Ms. Fix testified to the comparable sales presented by the Petitioner. The Petitioner used two-story homes as comparisons. It is inappropriate to use two-story homes when ranch style sales are available. The comparable sales presented by the Petitioner were included in Respondent's Exhibit #1. All of the sales that were presented by Petitioner were re-adjusted by Respondent, and the indicated value is within the assigned value range. The Respondent believes Petitioner's comparables further support Respondent's conclusion of value.

20. Under cross-examination, Ms. Fix testified that Petitioner's comparable sale #1 was not considered to be a suitable sale for comparison. From the information in the file regarding this sale, it was a non arms-length transaction. The Petitioner did not adjust for the pool area.

21. Respondent assigned an actual value of \$1,274,200.00 to the subject property for tax year 2002.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2002.

2. The Board has carefully considered all admitted evidence and testimony and believes the subject has been overvalued. The Board believes that some of the adjustments made to the Respondent's comparable sales are aggressive. The Board further agrees that several of the sales presented by the Respondent are not considered to be suitable sales.

3. The Board agrees with the Petitioner that Respondent's comparable sales #1 and #6 are not considered to be suitable sales. Comparable sale #1 is much smaller in size, and the overall net adjustments are 96%, indicating this may not be an appropriate comparable sale. Comparable sale #6 is not located within the subject's neighborhood, has a larger lot, and is considered to be located in a superior area. The Board disagrees with the Respondent that only ranch style homes should be used to compare with the subject property.

4. The Board believes the adjustments made by the Respondent for age and condition are aggressive and not supported. The Respondent reported that the comparable sales range from good to very good condition, indicating that some updating, renovation or remodeling has been done. The age of comparable sales range from 1968 to 1977. The overall condition rating given to the sales would point to a similar effective age, indicating a decrease in the adjustment calculation for age.

5. The Board also could give little weight to the adjustment calculations made by the Petitioner. The Petitioner based his adjustment calculation on cost figures. Adjustments made to the comparable sales should be based upon market extraction through sales, not actual cost figures. The sales presented by the Petitioner bracket the subject's living area and are located within the subject's neighborhood.

6. In determining the value of the subject property, the Board considered four of the comparable sales presented by the Respondent and four of the comparable sales presented by the Petitioner. The Board considered ranch style as well as two-story homes. The adjustments made by the Respondent are derived from the market and were relied upon by the Board. The Board believes that there should be an age adjustment due to the degree of upgrading. The adjustment was decreased to \$1,000.00 per year and the adjustments made for differences in style were eliminated. Sales not considered to be suitable were not considered.

7. After the adjustments were made to the comparable sales, the indicated value ranged from \$920,265.00 to \$1,116,943.00. The indicated value for the subject property, based on all of the evidence and testimony presented, was estimated to be \$950,000.00.

8. The Board concluded that the 2002 actual value of the subject property should be reduced to \$950,000.00.

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 28th day of August, 2003.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

AUG 28 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

