

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARION J. WELLS,</p> <p>v.</p> <p>Respondent:</p> <p>GARFIELD COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Marion J. Wells Address: 6691 County Road 309 Parachute, Colorado 81635 Phone Number: (970) 625-3464</p>	<p>Docket Number: 41283</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 18, 2003, MaryKay Kelley and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Don K. Deford, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6691 County Road 309, Parachute, Colorado
(Garfield County Schedule No. R270070)**

Petitioner is protesting the 2003 actual value of the subject property, a rammed earth structure containing two bedrooms and three bathrooms built on a 2-acre lot.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued for tax year 2003. She disagrees with the Respondent's valuation methodology since she does not believe that the walls, which are two feet thick, and the unheated areas of the subject property should be counted in the gross living area.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003. Although the subject is a unique property, the method of valuation is appropriate. The value of the subject property was not based solely on square footage; it was adjusted to reflect the unheated areas and the loss of usable wall space.

FINDINGS OF FACT:

1. Marion J. Wells, Petitioner, presented the appeal on her own behalf.
2. Petitioner presented an indicated value of \$251,300.00 for the subject property.
3. Petitioner did not present any comparable sales. Ms. Wells testified that the subject is an unusual structure and that the Respondent applied some rules that do not apply to her home, such as using outside measurements to calculate the heated area of the home at 4,218 square feet. Because the walls are two feet thick and represent 888 square feet, the subject has only 3,338 usable square feet.
4. Ms. Wells testified that no rammed earth homes had sold in the area. She seeks fairness in taxes, to at least be put on par with average or stick-built structures with six-inch thick walls.
5. Ms. Wells testified that because the subject is so unique, she was not able to obtain financing and cannot sell her house. The walls in the rammed earth house do not contribute to living area and the value should be 10% to 30% less than a 2" x 6" stick-built home.
6. In cross-examination, Ms. Wells admitted that the rammed earth design was her choice. She thought the thermal efficiency of the thick walls would be more, but it is similar to a 2" x 6" stick-built home.
7. Petitioner is requesting a 2003 actual value of \$251,300.00 for the subject property.

8. Respondent's witness, Mr. Paul Schoeppner, a Certified Residential Appraiser with the Garfield County Assessor's Office, presented an indicated value of \$287,810.00 for the subject property based on the market approach.

9. Respondent's witness presented three comparable sales ranging in sales price from \$259,900.00 to \$360,000.00 and in size from 1,560 to 2,459 square feet. After adjustments were made, the sales ranged from \$300,500.00 to \$345,250.00.

10. Mr. Schoeppner described the subject as being constructed from native soil and sand and the walls are two feet thick. He testified that he used the standard for measuring residential properties, as referenced in Respondent's Exhibit A, page 4, which states a property is measured on the outside perimeter of the structure.

11. Mr. Schoeppner testified that the subject presented a unique challenge to appraise, but that he has appraised homes of tire, straw and log construction, all of which have extended walls. He testified that there were no comparable properties like the subject in Garfield County or in surrounding counties.

12. Mr. Schoeppner testified that the subject cost more to construct than a 2" x 6" or straw structure. He did allow for an adjustment of 15% for the wall thickness and feels that if he erred, he did so in favor of the Petitioner.

13. Mr. Schoeppner discussed the comparable sales shown in Respondent's Exhibit A, page 10, testifying that all of the sales were located within five miles of the subject. Consideration was given to the subject's spa area and to the unheated portion of the finished basement. He calculated the adjustment based on a cost to cure, referencing the User Defined Area (UD1-25) shown in Respondent's Exhibit A, page 5.

14. In cross-examination, Mr. Schoeppner admitted that the sales used were not comparable since no homes similar to the subject had sold during the base period.

15. Respondent assigned an actual value of \$287,810.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. The Board agrees with both Petitioner and Respondent that a rammed earth structure is unique and poses a challenge to value. Regarding the measurement of the subject property, the Board agrees that, because the walls are two feet thick, the exterior measurements would appear to inflate the livable square footage as compared to a typical 2" x 4" or 2" x 6" built house. However, as indicated on page 4 of Respondent's Exhibit 1, Respondent followed guidelines that were developed by several federal agencies. The guidelines indicate that in unique circumstances,

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued for tax year 2003. She disagrees with the Respondent's valuation methodology since she does not believe that the walls, which are two feet thick, and the unheated areas of the subject property should be counted in the gross living area.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003. Although the subject is a unique property, the method of valuation is appropriate. The value of the subject property was not based solely on square footage; it was adjusted to reflect the unheated areas and the loss of usable wall space.

FINDINGS OF FACT:

1. Marion J. Wells, Petitioner, presented the appeal on her own behalf.
2. Petitioner presented an indicated value of \$251,300.00 for the subject property.
3. Petitioner did not present any comparable sales. Ms. Wells testified that the subject is an unusual structure and that the Respondent applied some rules that do not apply to her home, such as using outside measurements to calculate the heated area of the home at 4,218 square feet. Because the walls are two feet thick and represent 888 square feet, the subject has only 3,338 usable square feet.
4. Ms. Wells testified that no rammed earth homes had sold in the area. She seeks fairness in taxes, to at least be put on par with average or stick-built structures with six-inch thick walls.
5. Ms. Wells testified that because the subject is so unique, she was not able to obtain financing and cannot sell her house. The walls in the rammed earth house do not contribute to living area and the value should be 10% to 30% less than a 2" x 6" stick-built home.
6. In cross-examination, Ms. Wells admitted that the rammed earth design was her choice. She thought the thermal efficiency of the thick walls would be more, but it is similar to a 2" x 6" stick-built home.
7. Petitioner is requesting a 2003 actual value of \$251,300.00 for the subject property.

8. Respondent's witness, Mr. Paul Schoeppner, a Certified Residential Appraiser with the Garfield County Assessor's Office, presented an indicated value of \$287,810.00 for the subject property based on the market approach.

9. Respondent's witness presented three comparable sales ranging in sales price from \$259,900.00 to \$360,000.00 and in size from 1,560 to 2,459 square feet. After adjustments were made, the sales ranged from \$300,500.00 to \$345,250.00.

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14. In cross-examination, Mr. Schoeppner admitted that the sales used were not comparable since no homes similar to the subject had sold during the base period.

15. Respondent assigned an actual value of \$287,810.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. The Board agrees with both Petitioner and Respondent that a rammed earth structure is unique and poses a challenge to value. Regarding the measurement of the subject property, the Board agrees that, because the walls are two feet thick, the exterior measurements would appear to inflate the livable square footage as compared to a typical 2" x 4" or 2" x 6" built house. However, as indicated on page 4 of Respondent's Exhibit 1, Respondent followed guidelines that were

developed by several federal agencies. The guidelines indicate that in unique circumstances, consideration should be given to local tradition or custom. The Board notes that Respondent has appraised structures of unique construction before and follows a consistent method of measuring. The Board believes Respondent made appropriate adjustments to the subject for wall thickness.

3. Petitioner is requesting that the assigned value be lowered by \$36,510.00 for the unheated spa, basement workshop, and two-foot thick exterior walls based on the calculations shown in Petitioner's Exhibit 1. Based on figures from commonly used data sources and accepted appraisal practice, Respondent has applied a similar reduction to the indicated market value of \$325,000.00 to arrive at an assigned value of \$287,810.00. The Board believes that Respondent addressed the disputed items.

4. The Board carefully reviewed Respondent's comparable sales and agrees with both Petitioner and Respondent that they are not similar to the subject. However, the comparable sales did close during the base period and were the only sales presented. Therefore, the Board has no choice but to accept them as the best available.

5. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$287,810.00 for tax year 2003.

ORDER:

The petition is denied.

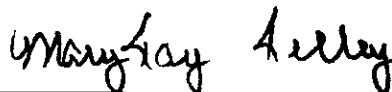
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

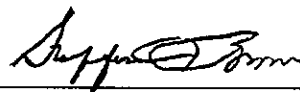
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 9th day of April, 2004.

BOARD OF ASSESSMENT APPEALS



MaryKay Kelley




Steffen A. Brown

This decision was put on the record

APR 08 2004

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


Penny S. Lowenthal

