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| <p><b>BOARD OF ASSESSMENT APPEALS,<br/>STATE OF COLORADO</b><br/>1313 Sherman Street, Room 315<br/>Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>DOUGLAS WEISER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PITKIN COUNTY BOARD OF EQUALIZATION.</b></p> |                                    |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Douglas Weiser<br/>Address: 555 Katie Park<br/>Snowmass, Colorado 81654<br/>Phone Number: (970) 927-8866</p>  | <p><b>Docket Number: 41304</b></p> |
| <p style="text-align: center;"><b>ORDER</b></p>  |                                    |

**THIS MATTER** was heard by the Board of Assessment Appeals on July 16, 2004, Rebecca Hawkins and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Christopher G. Seldin, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**555 Katie Park, Snowmass, Colorado  
(Pitkin County Schedule No. R017050)**

Petitioner is protesting the 2003 actual value of the subject property, an 11,018 square foot single-family residence located in the Twin Creeks Ranch subdivision. The subject property also has a 2,160 square foot barn, with 1,502 square feet of living area above the barn. The residence is excellent quality with many luxury features. Construction of the residence began in 2001 and was completed in 2003.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property has been overvalued. The Respondent used comparable sales from another market area that reflect higher ranges of value. The adjustments made to Respondent's comparable sales are not supportable and do not reflect the differences between the Aspen and Snowmass market areas. The Respondent did not take into consideration all of the factors that affect the value of the subject.

### **Respondent:**

Respondent contends that the subject has been correctly valued based on the market comparison approach. Proper and supportable adjustments were made to the comparable sales to account for all differences.

## **FINDINGS OF FACT:**

1. Mr. Douglas Weiser, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$3,200,000.00 for the subject property.
3. Petitioner presented six comparable sales ranging in sales price from \$1,500,000.00 to \$2,300,000.00 and in size from 2,200 to 6,700 square feet. No adjustments were made to any of Petitioner's sales.
4. Mr. Weiser testified that the market area is very important in the valuation process. The subject is located in Old Snowmass, yet all but one of Respondent's comparable sales are located in Aspen, which is approximately 25 minutes away.
5. Mr. Weiser testified that there is a difference in the values and homes in Old Snowmass area versus the Aspen area. None of the homes in Old Snowmass that were priced over \$2,300,000.00 have sold in over three years. Only three homes priced between \$1,000,000.00 and \$2,000,000.00 sold before January 2000. There are currently 16 properties listed for sale in Old Snowmass that are priced in excess of \$2,000,000.00. The market area has changed and not much is selling in the area. Any of the homes listed over \$2,000,000.00 have been on the market for over a year.
6. Mr. Weiser testified that there is no market for luxury homes in the Old Snowmass area. The available homes in the area are staying on the market for a much longer time frame. There should be an additional adjustment factor of 20% made to all of the comparable sales for the length of time on the market and the fact that there are no buyers in this value range.
7. Mr. Weiser reiterated that all of Respondent's comparable sales are located outside

the subject's market area and reflect higher sales prices. He disagrees with Respondent's adjustment calculations; no adjustments were made for market conditions or road construction. The Respondent's Comparable Sale 1 is located 15 miles away and Sale 5 is located on Highway 82, which has road construction in process.

8. Under cross-examination, Mr. Weiser agreed that the sale of 1468 Snowmass Creek in the Oh Be Joyful Acres subdivision is located adjacent to the subject and was primarily a land sale. This was a scrape off similar to the subject. The new owner built a 10,000 square foot luxury home and detached barn on the 40-acre site.

9. Petitioner's witness, Mr. Gary Feldman with Coates, Reid & Waldron, testified that he has advised real estate investors in the Old Snowmass area for nearly 20 years. He is very familiar with the market area and trends. During the tax base period, the market area reached a plateau and few homes were sold. It was the worst decline Mr. Feldman had seen in over 20 years.

10. Mr. Feldman testified that Respondent's comparable sales are not relevant to the Old Snowmass area. The Respondent did not use any sales from the direct market area. Highway 82 is under construction, which makes travel into the Old Snowmass area difficult.

11. Petitioner is requesting a 2003 actual value of \$3,200,000.00 for the subject property.

12. Respondent's witness, Lawrence C. Fite, a Certified General Appraiser with the Pitkin County Assessor's Office, presented an indicated value of \$5,750,000.00 for the subject property based on the market approach.

13. Respondent's witness presented six comparable sales ranging in sales price from \$2,300,000.00 to \$10,000,000.00 and in size from 5,767 to 11,645 square feet. After adjustments were made, the sales ranged from \$5,578,600.00 to \$8,303,300.00.

14. Mr. Fite testified that limited sales were available in the Old Snowmass area, and that the market had to be expanded to find appropriate sales for comparison. Six sales were selected and adjustments were made for all the differences in physical characteristics. The largest adjustment made was for the location. Comparable Sale 3 is the only comparable sale located within close proximity to the subject and reflects the location aspect. This sale has a smaller inferior lot and required an adjustment for location.

15. Mr. Fite testified that the subject property is new construction and the overall quality is rated excellent.

16. Respondent's witness testified that the majority of Petitioner's sales are much smaller and do not reflect the subject's degree of quality and upgrades. The adjustments that would have to be made to Petitioner's sales render them unsuitable for comparison.

17. The sale of 1468 Snowmass Creek in the Oh Be Joyful subdivision was primarily a land sale and the improvements contributed very little to the overall value. The property sold for \$2,300,000.00, which further supports Respondent's assigned value.

18. Respondent assigned an actual value of \$4,950,000.00 to the subject 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 Respondent presented a well-documented and supportable appraisal report. The Board believes the Respondent did take into consideration all of the factors affecting the subject property and made the appropriate adjustments.

3. The Board finds that the majority of Petitioner's sales are not the most suitable for comparison to the subject. After applying appropriate adjustments to Petitioner's comparable sales, the Board found the subject's assigned value to be within the indicated value range. The additional 20% adjustment factor for market conditions was not supported by any sales or market analysis. The high degree of adjustments required further supports that the majority of Petitioner's sales are not the most suitable for comparison.

4. The one comparable sale presented by both parties (Petitioner's Sale 1 and Respondent's Sale 3) is located in Old Snowmass and reflects the area's market trends and conditions. After adjustment, this sale reflects a higher value than the subject's assigned value.

5. The Board agrees that sales located within the subject's direct market area would be ideal; however, in the absence of appropriate comparable sales, it is acceptable appraisal practice to consider sales from the expanded market area as long as appropriate adjustments are made for any differences, including location, if warranted.

6. Based on all of the evidence and testimony presented, the Board affirms the Respondent's actual value of \$4,950,000.00 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 1<sup>st</sup> day of October 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca A. Hawkins

*Debra A. Baumbach*

Debra A. Baumbach

This decision was put on the record

OCT 01 2004

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

