

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL KOZLOWSKI,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Michael Kozlowski Address: 10160 Longview Drive Lone Tree, Colorado 80124 Phone Number: (303) 792-5078</p>	<p>Docket Number: 41329</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 12, 2003, Debra Baumbach and Rebecca Hawkins presiding. Petitioner appeared pro se. Respondent was represented by Michelle Gombas, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**10160 Longview Drive, Lone Tree, Colorado
(Douglas County Schedule No. 223116209029)**

Petitioner is protesting the 2003 actual value of the subject property, a two-story frame residence with approximately 4,574 square feet. The home has 5 bedrooms and 4 baths on the main floor and approximately 2,327 square feet in the basement.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued. The comparable sales used by the Respondent are not the best available. The Respondent has valued the subject property as the most expensive house in neighborhood, whereas two years ago, they valued it as the least expensive house in the neighborhood.

Respondent:

Respondent contends that the subject property was valued properly using the valuation method prescribed by law: direct sales comparison analysis. The assigned value is supported by the direct sales comparison analysis using sales located on the same street as the subject. Comparable Sales 1 and 2 are identical two-story models, similar in year of construction and in good condition.

FINDINGS OF FACT:

1. Mr. Michael Kozlowski, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$575,000.00 for the subject property.
3. Petitioner presented six comparable sales ranging in sales price from \$530,000.00 to \$650,000.00 and in size from 4,071 to 4,585 square feet. No adjustments were applied to the sales; however, Petitioner showed the average sale price, square footage and price per square foot.
4. Mr. Kozlowski testified that the subject property is located in the Carriage Club subdivision of Lone Tree. He presented sales in Carriage Club Estates with better site locations than the comparable sales used by Respondent. Mr. Kozlowski testified he does not agree that the sales used by the Respondent were the best available. He believes the Respondent's comparable sales were limited to only one street and that resulted in sales considerably higher than the subject property.
5. Mr. Kozlowski testified that the flawed time trending analysis resulted in increasing the indicated value of Respondent's Sale 1. Respondent's appraiser used two time periods for the time trending regression analysis as shown in Respondent's Exhibit #1. Respondent's Comparable Sale 1 was the only sale used during Period A: January 1, 2001 to June 30, 2001. Sales 2 and 3 occurred during period B: July 1, 2001 to June 30, 2002. Mr. Kozlowski testified that Sale 1 was an anomaly, but that is the sale they are comparing to the subject. He explained that this sale was a corporate relocation and sold for a higher price than is typical in his neighborhood.
6. Mr. Kozlowski testified that Respondent's appraiser did not adjust for differences in

land size on the market adjustment grid in Respondent's Exhibit #1. The subject site is smaller than the land size of all of the comparables used. He testified that the adjustment for basement finish applied to Comparables 1 and 2 was not valid. He explained that both of these homes have finished basements, but that fact is not recorded with the county. Mr. Kozlowski believes that 70% of the homes in the neighborhood have finished basements. He was one of the few homeowners that complied with the building permit requirement and now he is being penalized.

7. Mr. Kozlowski testified that Respondent's witness did not properly value the differences between the subject property and the comparables used. He questions the accuracy of Respondent's Exhibit 1 as he found errors throughout the report. He believes the \$10,000.00 adjustment for a walkout basement is unreasonable. During 1999, the builder charged \$25,000.00 for a walkout and \$15,000.00 for a garden level basement. Mr. Kozlowski believes that the value of these features was considerably more during the base period. He believes the lack of an adjustment for exterior masonry veneer is incorrect. The cost for masonry veneer is at least \$5,000.00 over and above a base price.

8. Mr. Kozlowski testified that all of the homes used as comparables originally sold for the same price, and he questions how they can be different in value two years later. He questions how his home, which was the least expensive house on the block, could be assessed \$80,000.00 more than any neighbor.

9. Under cross-examination, Mr. Kozlowski testified that the homes used in Petitioner's Exhibits R, S, T and U did not sell during the base period, they show only the assessor's current valuations. Petitioner found these properties on the Douglas County Assessor's website and just used them to compare the actual value of those properties to the actual value of the subject property. Petitioner did not present these properties as sales for the Board's consideration. He felt that they were good comparisons to his home since they were the same model and located on the same block as the subject. These homes have finished basements that were all finished around the same time frame. He noted that the subject property was valued 15% higher than the other properties.

10. Under further cross-examination, Mr. Kozlowski testified that sites in Carriage Club Estates are better than sites in Carriage Club. The homes were built on larger lots, were of better quality and the builder received higher sales prices. Mr. Kozlowski was not aware of the requirement to time trend comparable sales. He is not familiar with the cost approach and does not have any market data to support a finished basement adjustment of \$20,000.00. He based his figure on the cost to finish his basement and does not understand Respondent's \$45,000.00 adjustment.

11. Mr. Kozlowski testified that he denied Respondent's witness access to the interior of the subject property. He felt it was not fair for the appraiser to inspect his home and not look at other homes in the neighborhood.

12. Upon questions from the Board, Mr. Kozlowski testified that he made some adjustments to Respondent's comparable sales. He believes the \$45,888.00 adjustment for basement finish is excessive. His walkout basement adjustment was based on what the builder charged. He did not adjust the sales for time or appreciation. He based the adjustment for frame versus brick veneer on what he paid the builder for this upgrade. Mr. Kozlowski testified that other homes in the

area have a lot more brick than what is on his home. He does not believe that the sales used by Respondent's witness are valid comparisons to the subject property. Mr. Kozlowski believes that the first three comparable sales in Petitioner's Exhibit B and Sale 2 in Respondent's Exhibit 1 are most similar to the subject property.

13. Petitioner is requesting a 2003 actual value of \$575,000.00 for the subject property.

14. Respondent's witness, Ms. Beth Wilcox, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$650,223.00 for the subject property based on the market approach.

15. Respondent's witness presented three comparable sales ranging in sales price from \$590,000.00 to \$650,000.00 and in size from 4,071 to 4,585 square feet. After adjustments were made, the sales ranged from \$636,929.52 to \$717,678.56.

16. Ms. Wilcox testified that she did not inspect the interior of the subject property as access was denied.

17. Ms. Wilcox testified that US Home is the main builder in this neighborhood. She chose the comparable sales based on the two-story style, Carriage Club location, square footage between 4,071 and 4,574, year of construction between 1998 and 2000 and date of sale. Ms. Wilcox testified sales similar in style and size are easily found in Carriage Club. She limited sales to Carriage Club and used only sales located on the subject street. The witness testified that sites in Carriage Club Estates are larger and more expensive.

18. Ms. Wilcox testified that the subject property backs to a greenbelt area. She explained that all three sales were built by the same builder as the subject, are similar in square footage and condition and back to undeveloped or greenbelt areas. Comparables 1 and 2 are the same model as the subject property.

19. Ms. Wilcox presented three comparable sales shown on page 11 of Respondent's Exhibit 1. She testified that all of the comparable sales were verified as arms-length transactions. Comparable 1 is the same model as the subject property but has a walkout basement. It is inferior in the amount of basement finish. She explained that the basement could have been finished subsequent to this sale, but as of the closing date, it was unfinished. Comparable Sale 2 is also the same model as the subject but also has a walkout basement with no finish. Comparable 3 is smaller in square footage.

20. Ms. Wilcox testified that Comparable Sale 3 represents the low end of the value range since it does not have a walkout basement or any basement finish. The typical home in the neighborhood is frame construction with brick accents. Ms. Wilcox explained that she saw no indication of buyers in the re-sale market paying more for extra brick on the exterior.

21. Ms. Wilcox testified that the subject and all of the comparable sales enjoy a greenbelt amenity and have the same per site value. The indicated range of value by the sales comparison approach is \$636,929.00 to \$717,678.00. Most weight was given Comparable Sale 1 as it is the

same model as the subject and has the least net adjustment.

22. Ms. Wilcox addressed Petitioner's testimony regarding basement finish. Her method to value basement finish was based on a cost per square foot depending on quality differences. The adjustment of \$24.00 per square foot was applied for basement finish. She testified that Petitioner used more of a cost approach to value the basement finish. That method is not as acceptable as what the market will recognize. She testified that Petitioner obtained information online from the Douglas County website. Ms. Wilcox declared that there have been problems with the website and that it is not always correct. She believes Petitioner was comparing total actual values of similar homes to the subject property.

23. Under cross-examination, Ms. Wilcox testified that US Home and Laureate Homes have a common owner. She explained that multiple regression analysis indicates that homes with a finished basement sell for \$45,000.00 more in the general market. Upon redirect, Ms. Wilcox testified that the subject and all three comparable sales are similar in quality of construction.

24. During rebuttal testimony, Petitioner noted that the indicated value range on page 11 in Respondent's Exhibit 1 differs by \$90,000.00. Mr. Kozlowski questioned why there was such a large difference.

25. Ms. Wilcox testified that she is required to analyze time adjusted sales prices. If the assigned value is within this range then it is supported. She explained that once an indicated range of value is established, she analyzes the attributes of the homes to establish the final value conclusion.

26. Respondent assigned an actual value of \$650,223.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence to prove that the subject property was incorrectly valued for tax year 2003.

2. The Board has carefully considered all of the evidence and testimony and is convinced that the \$24.00 per square foot adjustment for basement finish is excessive. The Board considered testimony by the Petitioner as to the cost of finishing the subject property's basement. However, the Board was convinced that the comparable sales used in Respondent's Exhibit 1 best represent the subject property. They are on the same street as the subject and are similar in style, appeal, age, condition and greenbelt amenity. The Board agrees with Respondent's witness that the market will not substantially recognize a higher value for extra brick or stone on the front exterior of properties in the neighborhood.

3. The Board is satisfied that the time trending analysis provided by Respondent is reasonable for the periods shown, and concludes a positive time adjustment was warranted on Respondent's Sale 1. The Board could give little weight to Petitioner's comparison of the subject

property to the actual values of neighborhood homes. Standard appraisal practice dictates that sales of similar homes must be used and adjusted for differences in physical characteristics.

4. The Board finds Respondent's Sales 1 and 2 to be most similar to the subject property. However, due to the question of Respondent's Sale 1 selling outside of the market range, the Board placed most weight on Respondent's Sale 2. The Board believes Respondent's Sale 3 is least similar to the subject property in square footage and site size.

5. The Board cannot consider evidence or testimony regarding the failure of neighbors to obtain building permits. Petitioner's Exhibits J and K indicate that at the time of sale, these homes had unfinished basements.

6. After careful consideration of all of the evidence and testimony presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$636,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$636,000.00.

The Douglas County Assessor is directed to change his/her records accordingly.

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 13th day of March, 2004.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Rebecca Hawkins

Rebecca A. Hawkins

This decision was put on the record

MAR 11 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

