

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>NICHOLAS W. & RHONDA S. SPANIOLA,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Nicholas W. Spaniola Address: 4048 NW Walnut Court Corvallis, Oregon 97330 Phone Number: (541) 715-0524</p>	<p>Docket Number: 41413</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 12, 2004, Karen E. Hart and Diane M. DeVries presiding. Petitioners were represented by Nicholas W. Spaniola. Respondent was represented by Jeannine S. Haag, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Larimer County Schedule No. R1303937

Petitioners are protesting the 2003 actual value of the subject property, a 35-acre parcel with no improvements located in Sand Creek Park in northern Larimer County.

ISSUES:

Petitioners:

Petitioners contend that the subject property is not worth the actual value assigned to the parcel.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003.

FINDINGS OF FACT:

1. Mr. Nicholas Spaniola, Petitioner, presented the appeal on behalf of the Petitioners.
2. Based on the market approach, Petitioners presented an indicated value of \$17,767.00 for the subject property.
3. Petitioners presented three comparable sales ranging in sales price from \$12,900.00 to \$13,900.00. After adjusting for time, the sales prices ranged from \$16,400.00 to \$19,000.00. Petitioners' sales were 35 acre or larger parcels. All of Petitioner's sales occurred prior to the 18-month study period, though still within the five-year study period.
4. Mr. Spaniola testified that Respondent's Comparable Sale 2 has some improvements such as a sheltered picnic area and an outhouse as depicted on Respondent's Exhibit 1, page 9. Respondent's Comparable Sales 3, 4, and 5 are all 40-acre parcels and should be valued higher. He believes that property located closer to Sand Creek is more desirable than the subject property.
5. Petitioners are requesting a 2003 actual value of \$17,767.00 for the subject property.
6. Respondent's witness, Mr. Dwayne Gearhart, a Licensed Appraiser with the Larimer County Assessor's Office, presented an indicated value of \$20,900.00 for the subject property based on the market approach.
7. The Respondent presented seven comparable sales ranging in price from \$15,000.00 to \$24,000.00. After time adjustments, the sales prices ranged from \$16,200.00 to \$24,100.00. All comparable sales were 35 or 40-acre parcels indicating a median value of \$20,900.00. The witness testified that although his Comparable Sale 2 now has improvements, they were erected after the sale.
8. Mr. Gearhart testified that 30 sales have occurred within the five-year time frame allowed by Colorado Revised Statutes. Seven sales occurred within the 18-month time period. The sales prices do not reflect that 40-acre parcels sell for more than 35-acre parcels. As indicated on pages 8 through 11 of Respondent's Exhibit 1, the subject property and Respondent's comparable

sales have some sagebrush but no trees.

9. Mr. Gearhart testified that the median price of the 30 sales that occurred within the five year time period was \$20,850.00, which validates the actual value of the subject property.

10. Respondent assigned an actual value of \$20,900.00 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 Respondent's witness presented a well-documented appraisal of the subject property. The witness did not just look at the sales within the 18-month time period but looked at all of the sales that occurred in the five-year period. Both groups of sales indicated a value for the subject property ranging from \$20,850.00 to \$20,900.00.

3. The Board found no indication that properties located closer to Sand Creek command higher sales prices than the subject's location, or that 40-acre tracts sell for higher amounts than 35-acre tracts. Additionally, it was disputed as to whether Respondent's Comparable Sale 2 had improvements on it at the time of sale. The Board notes that even if this sale were removed from the analysis, Respondent's value is still supported by the remaining sales data.

4. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$20,900.00 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 19th day of August 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

This decision was put on the record

AUG 18 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

