

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>DELORES M. AND ALVIN E. BIERY,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Alvin E. Biery Address: P.O. Box 495 Franktown, Colorado 80116 Phone Number: (303) 688-1969</p>	<p>Docket Number: 41435</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 15, 2004, Karen E. Hart and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Michelle B. Gombas, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1374 N. Woodhaven, Franktown, Colorado
(Douglas County Schedule No. R0044361)**

Petitioners are protesting the 2003 actual value of the subject property, a contemporary ranch-style home with a fully finished walkout basement and two-car garage on a 4.85-acre site with good views.

ISSUES:

Petitioners:

Petitioners contend that the subject property was incorrectly valued for tax year 2003, that the Assessor ignored superior comparable sales and failed to make adjustments for several characteristics within the subject property.

Respondent:

Respondent contends that the subject property was valued correctly for tax year 2003 based on the market approach.

FINDINGS OF FACT:

1. Mr. Alvin E. Biery, Petitioner, presented the appeal on behalf of Petitioners.
2. An independent appraisal, admitted as Petitioners' Exhibit A, included sales ranging from \$400,000.00 to \$465,000.00 and in size from 1,882 to 2,571 square feet. Sale 3 occurred outside the appropriate time frame and could not be considered.
3. Mr. Biery testified that the independent appraiser measured the subject's exterior and that his square footage is correct. Mr. Biery contended that the Respondent's square footage is incorrect.
4. Mr. Biery testified that the Respondent's appraisal incorrectly stated that the quality of the property is "very good," and he disagreed with the quality determinations and adjustments for Comparable Sales 2 and 3.
5. Mr. Biery testified that several of his home's features were not addressed in the Respondent's market approach to value, including exterior stonework, graveled county road access, owner-maintained driveway easement, and aboveground utilities.
6. Mr. Biery presented Petitioners' Exhibit B, the Douglas County Assessor's online property profile for an adjacent property at 1302 Woodhaven Drive on 5.46 acres. For tax year 2003, the County valued the property at \$431,067.00. It sold on August 15, 2002 for \$410,000.00 following a two-year marketing period. He reported this sale as evidence that the Assessor did not consider pertinent data.
7. Petitioners are requesting a 2003 actual value of \$458,800.00 for the subject property.
8. Respondent's witness, Mr. Jerry D. McLeland, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$495,000.00 for the subject property based on the market approach. He did not perform an interior inspection.

9. Respondent's witness presented three comparable sales ranging in sales price from \$400,000.00 to \$560,000.00 and in size from 1,634 to 2,758 square feet. After adjustments, the sales ranged from \$473,832.800 to \$549,569.710.

10. Mr. McLeland testified that the subject property is "very good" quality based on features such as its contemporary construction, vaulted ceilings, numerous windows, passive solar system, commercial refrigerator, jetted tub, views to the west, and exterior and interior stonework.

11. Mr. McLeland testified that the parameters for comparable sale selection were location, acreage, ranch design, and quality of construction. He testified that the comparable sales had similar acreages, walkout basements, and bracketed the subject in size.

12. Mr. McLeland testified that the Petitioners' independent appraisal omitted time trending, reported incorrect square footage, and that Comparable Sale 3 sold outside the time frame.

13. In cross-examination, Mr. McLeland stated that the market did not recognize the differences between county and privately maintained roads, paved or graveled driveways, exterior brick/rock trim or a full frame exterior, and above or below-ground utilities. He was not aware of an outbuilding or pole fencing for Comparable Sale 2.

14. Respondent assigned an actual value of \$495,000.00 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 did not place any weight on Petitioners' Exhibit A, Petitioners' independent appraisal, due to the fact that the appraiser did not appear as a witness and therefore could not be questioned as to his value conclusion.

3. The Board acknowledged conflicting data between the two appraisal reports and would have benefited from the independent appraiser's testimony regarding the subject property, the comparable sales, and the square footage calculations.

4. Respondent's witness presented a well-organized appraisal report that adequately supported the value conclusion. However, the Board recommends that Petitioners and Respondent meet at the property to determine the correct square footage of the subject property.

5. After careful consideration of all of the testimony and evidence presented, the Board affirms Respondent's value of \$495,000.00.

ORDER:

The petition is denied.

APPEAL:

Petitioners 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 27th day of January, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

JAN 22 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



BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	
<hr/> Petitioners: DELORES M. AND ALVIN E. BIERY, v. Respondent: DOUGLAS COUNTY BOARD OF EQUALIZATION.	
Attorney or Party Without Attorney for the Petitioners: Name: Alvin E. Biery Address: P.O. Box 495 Franktown, Colorado 80116 Phone Number: (303) 688-1969	Docket Number: 41435
AMENDED ORDER	

THE BOARD OF ASSESSMENT APPEALS hereby amends its January 24, 2004 Order in the above-captioned appeal.

1. For the purpose of clarification, the Board revises Findings of Fact #3, #5 and #13 as follows:

3. Mr. Biery testified that the independent appraiser measured the subject's exterior and that his square footage is incorrect. Mr. Biery contended that the Respondent's square footage is correct.

5. Mr. Biery testified that several of his home's features were not addressed in the Respondent's market approach to value, including that the home is located off of a half-mile owner-maintained easement rather than a county maintained road, the driveway is graveled rather than paved, it has aboveground utilities, and minimal exterior stonework.

13. In cross-examination, Mr. McLeland stated that the market did not recognize the differences between county and privately maintained roads, paved or graveled driveways, exterior brick/rock trim or a full frame exterior, and above or below-ground utilities. He was not aware of an outbuilding for Comparable Sale 2 or pole fencing for Comparable Sale 3.

In all other respects, the January 24, 2004 Order shall remain in full force and effect.

DATED and MAILED this 5th day of February, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

FEB 0 4 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

