

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>JOE AND JUDY THOMECZEK,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BENT COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Judy Thomeczek Address: P.O. Box 387 Las Animas, Colorado 81054 Phone Number: (719) 456-1296</p>	<p><b>Docket Number: 41612</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 15, 2004, Judee Nuechter and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Mark A. MacDonnell, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**646 Sixth Street, Las Animas, Colorado  
(Bent County Schedule No. 1001720-R)**

Petitioners are protesting the 2003 actual value of the subject property, a 2,254 square foot 1½ story brick house built in 1928 with partially finished basement and garage.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property was overvalued for tax year 2003. The Respondent did not consider the subject's physical deficiencies and lack of remodeling.

### **Respondent:**

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

## **FINDINGS OF FACT:**

1. Judy Thomeczek, Petitioner, presented the appeal on behalf of Petitioners. She testified that the following deficiencies exist in the subject property: damage to interior walls from roof leaks; structural cracks and settlement; damage to brick mortar; water damage and mold in the basement from flooding; dated mechanical systems; no kitchen, bath, or other remodeling; damaged and sagging wood flooring; inoperable exterior water faucets; lead paint; and deteriorated exterior siding.

2. Ms. Thomeczek presented four comparables selected for their lack of updating and remodeling; however, Sales 1 and 4 did not occur within the base period and Comparable 3 was not a sale. She referred to Respondent's Exhibit 7, which displayed Petitioner's sales in the same format as the Respondent's comparables. The assigned values of Petitioner's comparables ranged from \$20,068.00 to \$41,266.00, and are the basis for the Petitioner's requested value.

3. Ms. Thomeczek testified that the Respondent's comparables shown in Exhibit 6 should not have been considered for comparison because they, unlike the subject, had been remodeled. She did not provide any information or detail about the remodeling.

4. Petitioner is requesting a 2003 actual value of \$38,000.00 for the subject property.

5. Respondent's witness, Guy Fletcher Wagner, a Certified Residential Appraiser with the Bent County's Assessor's Office, testified that flooding is not uncommon in the area and that many homes have water damage and settlement. He agreed, based on an interior inspection, that the subject property had not been remodeled.

6. Mr. Wagner selected three 1½ story comparable sales because of similarity in style. The sales ranged in price from \$68,500.00 .00 to \$79,000.00 and in size from 1,334 to 2,182 square feet. No adjustments were made to Respondent's comparable sales. The Bent County Assessor's assigned values were presented, ranging from \$51,618.00 to \$78,999.00. He testified that all three comparables had electrical and plumbing updating.

7. Mr. Wagner testified that only Petitioner's Comparable Sale 2 was a valid sale within

the base period, and that it was not an acceptable comparable because it was not a 1½ story dwelling, was considerably smaller, and because it had neither basement nor garage.

8. Mr. Wagner testified that he did not prepare a market grid of Respondent's comparable sales showing adjustments, and he was unable to verbally provide adjustments for any line item.

9. Respondent assigned an actual value of \$50,343.00 to the subject property for tax year 2003 based on the assigned values of Respondent's comparable sales.

## **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 was not convinced by Petitioner's comparable sales data that the value of the subject property should be reduced. Only one property was a legitimate sale within the base period, and nominal adjustments for gross living area, basement size and finish, and garage suggest a higher value than either party is requesting.

3. The Board would have benefited from a site specific appraisal based on the market approach to value from the Respondent and detail regarding the extent of Respondent's comparable sales' remodeling. Nominal adjustments to Respondent's sales for size of the houses, basements, and garages do not reflect remodeling, and lack of data prevents a thorough analysis.

4. The value of residential properties must be based on the market approach. Comparing assessed values, whether land, improvements, or both, is not an acceptable method of establishing market value either in common recognized appraisal practice or in state statute.

5. Respondent's testimony and exhibits are more convincing than those presented by the Petitioner.

6. Based on all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$50,343.00.

## **ORDER:**

The petition is denied.

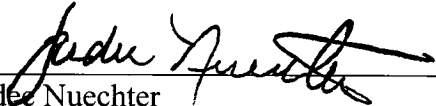
**APPEAL:**

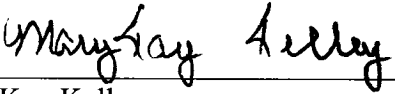
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 2<sup>nd</sup> day of November 2004.

**BOARD OF ASSESSMENT APPEALS**

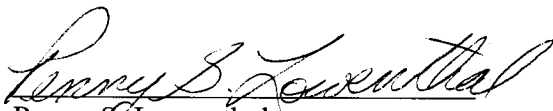
  
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Jude Nuechter

  
\_\_\_\_\_  
MaryKay Kelley

This decision was put on the record

**NOV 01 2004**

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

  
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Penny S. Lowenthal

