

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	
Petitioner: EDWARD T. BENNING, v. Respondent: GRAND COUNTY BOARD OF EQUALIZATION.	
Attorney or Party Without Attorney for the Petitioner: Name: Edward T. Benning Address: 6968 Springhill Drive Longmont, Colorado 80503 Phone Number: (303) 652-3810	Docket Number: 41824
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on March 1, 2005, Diane M. DeVries and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Anthony DiCola, Esq. Petitioner is protesting the 2003 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**180 Fawn Drive, Tabernash, CO
(Grand County Schedule No. R119880)**

The subject property is a Uniform Building Code wood sided factory built home constructed in 1998. The residence has approximately 2,396 square feet of living area and a 1,400 square foot unfinished walk-out basement.

ISSUES:

Petitioner:

Petitioner contends that the subject property was overvalued for tax year 2003, as Respondent did not consider all of the deficiencies affecting the subject. All of the comparable sales are superior to the subject.

Respondent:

Respondent contends that the subject was correctly valued based on the market comparison approach. Adjustments were made for all differences in physical characteristics and all factors affecting the subject property have been considered.

FINDINGS OF FACT:

1. Mr. Edward T. Benning, Petitioner, presented the appeal on his own behalf
2. Based on the market approach, Petitioner presented an indicated value of \$295,000.00 for the subject property.
3. Petitioner presented four comparable sales ranging in sales price from \$240,000.00 to \$335,000.00 and in size from 1,768 to 2,551 square feet. No adjustments were made to any of the sales.
4. Mr. Benning testified that the subject is a modular, factory built structure. The initial cost of the structure was \$140,000.00, with an additional \$40,000.00 related to infrastructure costs. The fixtures and finish are of average grade and quality. The subject was set down by crane on an unfinished basement. At the time of completion, Petitioner discovered that the residence had inadequate insulation and other manufacturing defects. There were subsequent legal disputes and some of the defects were marginally repaired. Additionally, the subject is situated on a sloping lot with minimal views.
5. Mr. Benning testified that Petitioner's comparable sales represent market trends in the area. Sale 2 is located directly next door to the subject. All of the sales are superior to the subject. After considering all of the differences between the subject and the comparable sales, Petitioner believes that the requested value is supported.
6. Under cross-examination, Mr. Benning testified that the Certificate of Occupancy for the subject was delayed, not revoked. One of the main issues regarding the subject was the lack of insulation between the basement and flooring. The comparable sales he selected were not adjusted for any differences. The market was flat during the 18-month base period and Mr. Benning did not believe any adjustments would be warranted.

7. Mr. Benning testified that Respondent's comparable sales are not suitable. Two of the sales are located outside the subdivision and none of the sales are factory built homes. Respondent did not consider the subject's inferior sloping lot.

8. Petitioner is requesting a 2003 actual value of \$295,000.00 for the subject property.

9. Respondent's witness, Tom Weydert, a Certified Residential Appraiser with the Grand County Assessor's Office, presented an indicated value of \$360,500.00 for the subject property based on the market approach.

10. Respondent's witness presented four comparable sales ranging in sales price from \$318,000.00 to \$349,900.00 and in size from 1,416 to 2,351 square feet. After adjustments were made, the sales ranged from \$336,700.00 to \$379,800.00.

11. Mr. Weydert testified that the subject is considered to be good quality construction and well maintained.

12. Mr. Weydert testified that he reviewed the sales that occurred within the 18-month base period and selected the four sales that he considered to be the most appropriate. Sales 1 and 2 are located within close proximity to the subject. Sales 3 and 4 are located in a competing subdivision. The comparable sales were adjusted to reflect all differences in physical characteristics.

13. Mr. Weydert testified that no time adjustments were made to any of the sales, as the market area experienced a slow down during the base period. Sales 3 and 4 were adjusted to reflect their superior location to the town of Granby and local amenities.

14. Mr. Weydert testified that he reviewed the sales presented by the Petitioner and applied adjustments for the differences in characteristics. Petitioner's Sale 3 is a factory built structure that was originally the town post office that has been converted into a hardware store. This is an older structure and is not considered to be a suitable comparable sale. After adjustment, the indicated value range of Petitioner's comparable sales is within the value range presented by the Respondent.

15. Mr. Weydert testified that Petitioner presented no evidence to substantiate that any of the reported deficiencies prevented the homeowner from occupying the property. The subject's lot is not considered to be inferior to other lots in the area. The market area is primarily mountainous and the majority of lots in this area are sloping. The subject has a large building envelope, as do many other lots in the area.

16. Respondent assigned an actual value of \$349,590.00 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. Respondent presented a well-supported and documented appraisal report. Adjustments were made to the comparable sales for all the differences in physical characteristics.
3. The Board was not convinced that Respondent's adjustments for location were supported. However, the subject's assigned value is well below the value indicated by the market approach and takes into consideration any additional factors affecting the subject. Furthermore, after adjustment, the value range of Petitioner's sales support the assigned value.
4. The Board could give little weight to the Petitioner's value conclusion. None of the sales were adjusted for differences in physical characteristics. Petitioner did not present any cost estimates or engineering reports regarding the subject's deficiencies. No evidence was presented to substantiate how any of the deficiencies might negatively impact the value or marketability of the property. Additionally, no evidence was presented to indicate that the structure's location on the lot is negatively affected by the sloping areas.
5. Petitioner raised the issue that none of Respondent's comparable sales were factory built homes. Neither party presented any evidence to corroborate that the market recognizes any differences in value between factory built homes and site built homes. Although Petitioner's Sale 3 is a factory built structure, it is older than the subject and was originally used as a post office then as a hardware store. The degree of required adjustments to this sale indicate that it is likely not suitable for comparison to the subject property.
6. Based upon all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$349,590.00 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 17th day of March 2005.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

MAR 16 2005

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

