

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THEODORE TSUCALAS,</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: Theodore Tsucalas Address: 1054 Finn Ave. Littleton, Colorado 80124 Phone Number: (303) 799-0833</p>	<p>Docket Number: 41874</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 5, 2004, MaryKay Kelley and Rebecca Hawkins presiding. Petitioner appeared pro se. Respondent was represented by Michelle Gombas, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1054 Finn Avenue, Littleton, Colorado
(Douglas County Schedule No. R0036880)**

Petitioner is protesting the 2003 actual value of the subject property, a ranch style home built in 1986 with 1,599 square feet, a full, unfinished, walkout basement, and a 1,026 square foot garage. The subject property is located on approximately five acres in the McArthur Ranch subdivision.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued due to a declining market and the negative affect of power lines not recognized. The sales used by Respondent are not the best available.

Respondent:

Respondent contends that the assigned value is correct. It is supported by similar sales adjusted for time and differences in physical characteristics. The appraisal submitted by Petitioner has numerous errors and contains sales that are not similar to the subject property.

FINDINGS OF FACT:

1. Mr. Theodore Tsucalas, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$390,000.00 for the subject property.
3. Petitioner presented an appraisal with three comparable sales ranging in sales price from \$402,500.00 to \$550,000.00 and in size from 2,413 to 2,555 square feet. After adjustments were made, the sales ranged from \$356,895.00 to \$438,940.00.
4. The appraisal completed by Mr. Arthur Klinowski, a Certified General Appraiser, describes the subject property as being in average condition with no updating since construction. The appraisal included one comparable sale also used by the Respondent. The other two sales were located in neighborhoods two and three miles from the subject. No adjustments were made for time, land size, or differences in location or style. The comparable sales used are either two-story or tri-level style homes. All of the sales are larger than the subject property and were given substantial adjustments. Sale 1 is older but superior in updating with a negative \$45,000.00 adjustment. Other adjustments were made for differences in amenities. Mr. Klinowski also included two current listings as of July 22, 2003
5. Mr. Tsucalas testified that he read newspaper articles that reflected property values had decreased by 25%. The article also addressed a typical negative adjustment of 10% to 20% for homes close to high-tension lines. He noted that Mr. McLeland, Respondent's witness, only applied a negative 7% adjustment for power lines. Mr. Tsucalas feels the positive time adjustment applied by Mr. McLeland contributed to the overvaluation of the subject property. He has observed two listings near his home that have been for sale over two years with numerous price reductions.

6. Mr. Tsucalas feels that location is an important factor in determining property value. The roads are not well maintained, produce an extreme amount of dust and are so rough at times that cars can only drive 10 miles per hour. When the roads are graded it only lasts a couple of days and provides a new layer of dust. The dust clouds are at their worst the week after a new grading. After a snow the roads are not passable due to the mud. Mr. Tsucalas believes the road problems have the greatest negative impact on value.

7. During cross-examination and questions from the Board, Mr. Tsucalas estimated that the distance from the power lines to his home is approximately 200 to 300 feet. His home is affected by an extreme amount of dust and is in original condition with no updating.

8. Petitioner is requesting a 2003 actual value of \$390,000.00 for the subject property.

9. Respondent's witness, Mr. Jerry McLeland, a Certified Residential Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$471,573.00 for the subject property based on the market approach.

10. Mr. McLeland presented five comparable sales ranging in sales price from \$360,000.00 to \$550,000.00 and in size from 1,514 to 2,413 square feet. After adjustments were made, the sales ranged from \$437,337.65 to \$551,503.24.

11. Mr. McLeland completed an interior inspection of the subject property. In searching for sales, he first looked for ranch style homes in the subject subdivision. Adjustments had to be made for differences in location, age, square footage, basement size and finish, garage size, heat type and amenities. Mr. McLeland explained that Comparable Sales 1, 2 and 3 are located in a more rural area of horse properties with gravel roads, are considered inferior to the subject and required location adjustments. Comparable Sales 3 and 4 are in the same subdivision as the subject property. Sale 3 is substantially larger than the subject property. Sale 4 is an older sale of a different design that is slightly larger in size. No adjustments were necessary for differences in land size or land values.

12. Mr. McLeland testified that he considered the influence of the power lines on value. He took measurements from the power line tower and measured approximately 200 to 300 feet from the house to the tower. Based on this distance, he concluded that the power lines and tower had no negative impact on the value of the subject property.

13. Mr. McLeland reviewed Petitioner's Exhibit A, the appraisal prepared by Mr. Arthur Klinowski. He found minor errors and inconsistencies throughout the report and does not agree with the value conclusion. He feels the sales used by Mr. Klinowski are not comparable to the subject property and he would not use them.

14. During questions from the Board, Mr. McLeland explained that he did not adjust the sales for condition but analyzed the quality rating instead. Petitioner's Comparable Sale 4 at 10637 S. Niagara Street is the same property as Respondent's Comparable 1. Although Mr.

Klinowski felt this sale was superior to the subject and applied a negative \$45,000.00 adjustment, Mr. McLeland did not adjust this sale for condition.

16. Respondent assigned an actual value of \$471,573.00 to the subject property for tax year 2003.

CONCLUSIONS:

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

2. The Board was convinced that sufficient adjustments were not made to Respondent's Sales 1, 2 and 3 to reflect the superior paved roads and lack of high-tension power lines. Testimony from both Petitioner and Respondent indicated that the power lines are between 200 and 300 feet from the subject property. Although this distance may be far enough to prevent power line noise intrusion, the appearance of the towers and lines would likely be considered a negative in the market. The Board considered testimony by Mr. McLeland that his appraised value reflected a negative adjustment for the power lines, but the specific adjustment is not identified. The Board was persuaded that the combination of dirt roads, power lines and towers would render the subject property inferior to Respondent's Sales 1, 2 and 3.

3. Although Respondent's Sales 4 and 5 are in the subject neighborhood with similar influences, Sale 4 is 814 square feet larger than the subject and Sale 5 sold 30 months prior to the date of value. The Board does not believe Sales 4 and 5 best represent the value of the subject property.

4. The Board analyzed the sales presented by Petitioner and Respondent and was convinced that Respondent's Sale 3 is most similar to the subject. While Respondent's Sales 1 and 2 are similar to the subject in style and size, they are located east of Parker and Franktown, respectively. These locations are not as convenient to the metro area as Sale 3, supporting the feasibility of a location adjustment. Although support for the \$70,000.00 location adjustment was not provided, the Board did not remove it from Sales 1 and 2. The location of these properties would be inferior to the subject property.

5. Respondent's Sale 3 is located in a similar rural neighborhood that is close to Interstate 25, providing convenient access to the metro area. It is very similar in style, age and size. The Board removed the \$70,000.00 positive location adjustment from Sale 3 suggesting an indicated value of \$428,628.65. After this adjustment, Respondent's Comparable Sales 1, 2 and 3 indicated a value range from \$428,628.65 to \$441,471.00. The Board gave consideration to Sales 1, 2 and 3.

6. Based on all of the evidence and testimony presented, the Board concluded that the 2003 actual value of the subject property should be reduced to \$435,000.00.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$435,000.00.

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 15th day of June, 2003.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Rebecca Hawkins

Rebecca Hawkins

This decision was put on the record

JUN 14 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

