

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JOHN T. SMITH LIVING TRUST,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>CHAFFEE COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: John T. Smith Living Trust Address: 150 Plaza Drive Liberal, Kansas 67901 Phone Number: (620) 624-1834</p>	<p><b>Docket Number: 41939</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 18, 2004, Karen Hart and Rebecca Hawkins presiding. Petitioner appeared pro se by telephone. Respondent was represented by Jennifer Davis, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**21745 Cottonwood Lane, Nathrop, Colorado  
(Chaffee County Schedule No. R342119100089)**

Petitioner is protesting the 2003 actual value of the subject property, a single-family residential property of log construction. It has electric heat, three bedrooms, two baths, no basement and no garage. It is located on approximately one-half acre of land with creek frontage. The original dwelling, constructed in 1976, was 996 square feet; 880 square feet were added in 1999 for a total of 1,876 square feet.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property is overvalued due to problems with access, road litigation and the water system.

### **Respondent:**

Respondent contends that the subject property is properly valued. The value is supported by the sales comparison approach and no decrease in value exists as a result of the litigation.

## **FINDINGS OF FACT:**

1. Mr. John Smith, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$202,400.00 for the subject property.
3. Petitioner presented six comparable sales, three of which sold outside the base period. The remaining three sales, Comparables 1, 4 and 6, ranged in sales price from \$122,600.00 to \$385,000.00 and in size from 976 to 3,370 square feet.
4. Petitioner's Comparable Sale 1 is smaller in square footage and slightly larger in site size. Comparable Sale 4 is smaller in square footage with an inferior site. Comparable Sale 6 is new construction, similar in square footage and slightly larger in site size.
5. Mr. Smith obtained property sale information from the Multiple Listing Service. He interviewed area Realtors for sales information, value trends and market value opinions. Sales information indicated an increase of approximately 6% over the base period. During the base period, the economy and the real estate market were slow. Respondent used sales that were on the market between three and six months. Mr. Smith found eight months to be the typical marketing time during the base period.
6. Petitioner believes the comparable sales should be adjusted for differences in lot size, bedrooms, car storage, condition, age, location and construction. The comparative market analysis shown in Petitioner's Exhibit A indicates a market value of \$202,400 for the subject property and a value per square foot of \$102.33. Adjustments were not made for log versus frame construction, as Realtors in the marketplace advised that there is no discernable difference in value attributed to log homes. The subject property is described as a ranch style dwelling of log construction. The quality of the logs is low, as they are only 5 inches in diameter and have a lower R-factor. This contributes to a

higher utility expense. Mr. Smith testified that the market does not have a negative reaction to log construction. Buyers either like it or they do not; no premium or penalty is applied.

7. The subject property is west of the town of Nathrop in the Arkansas Valley. Access to the subject site is from a gravel road past the wastewater treatment plant. The subject development was involved in litigation over the water treatment plant, covenants and roads.

8. Mr. Smith testified that land values range from \$40,000.00 to \$80,000.00 per acre. He is aware of a site nearly one acre in size on the stream that sold for \$30,000.00. In order to build a dwelling, the site needed to be removed from a flood plain. He feels this sale illustrates the low end of the value range. A sample of Nathrop area sales indicates a range of sales prices from \$80.00 to \$115.00 per square foot, with an average of \$94.29 per square foot. This represents a 1.62% increase per square foot over the prior value. Mr. Smith believes \$80.00 per square foot is reasonable for the subject dwelling due to the type and quality of construction. He feels Respondent used figures that were in excess of what is supported in the market.

9. Under cross-examination, Mr. Smith explained that he is a licensed Real Estate Broker in Kansas but not in Colorado. He did not measure the subject property. The river frontage is approximately 100 feet and abuts the subject property on one side. When asked how he verified the sales prices shown in Petitioner's Exhibit A, Mr. Smith explained he used Multi- List sheets supplied by Colorado Brokers. He did not make a time adjustment. Comparable Sale 1 could be modular construction. His value conclusion was based on Realtors' judgment of value, experience in the area and market opinions. Experienced Realtors concluded that \$80.00 per square foot is a reasonable figure. He did not have a basis to adjust for differences in bathrooms or time trending so no adjustments were made.

10. Petitioner's witness, Ms. Karin Adams, a licensed Real Estate Broker with the State of Colorado, testified that many variables go into establishing the value of a property. In this area, the first issue is the view; second are the buyers' dominant buying requirements. Factors having a negative affect on value include electric heat, the water treatment plant and homeowner insurance problems. The wild fires also had a large negative affect on market values. She explained that modular built dwellings have become acceptable in the market and the price per square foot has increased to become more comparable to stick built homes.

11. Ms. Adams further testified that buyers in the general area desire both view locations: in the town of Nathrop with mountain views or by the stream without a mountain view. She confirmed problems with the covenants in the subdivision, constant litigation, increasing fees and water system problems. Road and access issues have been in litigation since the mid 1970's over disputed responsibilities of the parties.

12. Petitioner is requesting a 2003 actual value of \$202,400.00 for the subject property.

13. Respondent's witness, Ms. Mari P. Moore, a Registered Appraiser with the Chaffee County Assessor's Office, presented an indicated value of \$246,887.00 for the subject property based on the market approach.

14. Respondent's witness presented four comparable sales ranging in sales price from \$229,900.00 to \$385,000.00 and in size from 1,400 to 1,939 square feet. After adjustments and a correction for the missed fireplace adjustment, the comparable sales ranged from \$237,812.00 to \$371,070.00.

15. Ms. Moore testified that property values have been increasing during the last several years. Every two years, property is re-evaluated by the Assessor's Office and time adjustments must be considered. Her office evaluates trending analyses and looks for repeat sales of the same property. Length of time on the market is not considered for time trending purposes.

16. Ms. Moore described the subject property as having good access not far from a paved road. The subject property is located next to the river with no mountain view, but it does have a limited view of the cliffs. A water treatment plant is located near the turn-off from the paved road into the development. The water treatment plant is not noticeable from the subject site. She took exterior measurements of the subject dwelling and considered it a one story with a walkout basement. The original portion of the subject property was built in 1976 with an addition completed in 1999. The overall effective age is 15 years.

17. The sales comparison grid in Respondent's Exhibit 1 shows adjustments for time, as well as differences in age, land size, square footage, and basement finish and walkout features. Ms. Moore did not adjust for a potbelly stove. During the hearing, she corrected an error concerning fireplace adjustments in the Comparables. Only Comparable Sales 3 and 4 are log construction similar to the subject. She did not feel it was necessary to adjust for differences between frame and log construction. The adjustments of \$20,000.00 for location and \$20,000.00 for car storage were obtained from market studies.

18. Both Petitioner and Respondent used the same sale, Respondent shows 15238 Cottonwood Lane as Comparable Sale 1, while Petitioner uses it as Comparable Sale 6. Ms. Moore explained that she viewed this dwelling as one story with a walkout basement and therefore has a different square footage figure than the Petitioner. This sale is two or three lots to the east of the subject site and also has river frontage.

19. Respondent's Comparable Sale 2 is approximately 2 miles from the subject property. It does not have creek frontage, but it does have a walkout basement, limited mountain view and numerous tall pine trees. Respondent's Comparable Sale 3 is located approximately eight miles from the subject property. It is on a private golf course close to Buena Vista and is log construction. Ms. Moore did not adjust for the golf course premium as she considered it equal to the river frontage enjoyed by the subject. Only a limited number of properties have creek frontage and it is considered as desirable as the golf course site. Comparable Sale 4 is in the same neighborhood as the subject property. It has a slightly smaller site, is newer in year of construction and similar in condition. It is smaller in square footage on the main floor but has a finished basement.

20. The Chaffee County Assessor's Office has analyzed differences in land value depending on location and/or view. Ms. Moore explained creek frontage is a big draw and there is probably added value for this feature. However, the overall location in the valley must be considered. Values are higher in the city due to the mountain views.

21. Ms. Moore explained that she analyzed market reactions to electric heat compared to gas. She did not find it to be a discernible factor in the market and therefore made no adjustment. While she agrees that access to the subject property is past the water treatment plant, once one is on the subject property the plant is not noticeable. For this reason, she does not believe that the water treatment plant is viewed detrimentally in the market.

22. Ms. Moore testified that she gave most weight to Respondent's Comparable Sale 1, as it is the best comparable in terms of location. It is on the same road as the subject property, suffers from the same subdivision influences and has creek frontage. In conclusion, Ms. Moore feels the market does not recognize a decrease in value due to road, water or litigation issues.

23. Upon cross-examination, Ms. Moore testified that property values throughout Chaffee County generally increased during the base period. Neighborhoods differ in percentage of increase and a few areas may have even decreased. The amount of increase per month, as well as the median increase, changes depending on sample size. Some values went up over 34%. If all properties were included in the analysis, the increase would probably be in the 12% to 15% range. She also explained the process for studies on river frontage and view adjustments. Creek frontage draws higher values than properties without creek frontage. She indicated that the adjustment of \$20,000.00 reflected the results of the studies and she felt it was reasonable in the marketplace.

24. Respondent assigned an actual value of \$246,887.00 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's witness presented a well-developed valuation analysis using properly adjusted comparable sales. Respondent and Petitioner used different total square footage figures. The Board was convinced that Respondent's witness used the correct square footage of 1,876, as he measured the dwelling.

3. The Board was most persuaded by Respondent's Comparable Sales 1 and 2. Respondent's Comparable Sale 1 is the same property as Petitioner's Comparable Sale 6. Petitioner's Comparable Sale 6 (Respondent's Comparable Sale 1) is similar to the subject in location, creek frontage, and size. It is newer in year of construction and superior in basement and car storage. Once adjustments are made for these differences, the indicated value more than supports \$246,887.00.

4. The Board considered Petitioner's issues concerning the higher utility costs due to the log construction and electric heat, the negative affect of the waste water treatment plant, and ongoing litigation. The Board could give little weight to Petitioner's argument regarding these items due to the lack of factual evidence provided to support these opinions. Petitioner's testimony alone is insufficient to support Petitioner's value and the grid provided in Petitioner's Exhibit A does not follow accepted appraisal guidelines. The analysis of price per square foot is not appropriate appraisal practice.

5. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$246,887.00.

**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 28<sup>th</sup> day of July, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Rebecca Hawkins*

Rebecca A. Hawkins

This decision was put on the record

**JUL 28 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

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