

<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>CHRISTINA IANNI,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Christina Ianni Address: 5011 West 32<sup>nd</sup> Ave. Denver, Colorado 80212 Phone Number: (303) 477-6271</p>	<p><b>Docket Number: 42696</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 27, 2003, Judee Nuechter and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Charles T. Solomon, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**5011 West 32<sup>nd</sup> Avenue, Denver, Colorado  
(Denver County Schedule No. 02302-39-010-000)**

Petitioner is protesting the 2003 actual value of the subject property, a single-family residence with 661 square feet of living area built in 1921.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that Respondent did not consider the changes that have taken place around the subject property and that it is overvalued.

### **Respondent:**

Respondent contends that the subject has been properly valued using the market approach to value.

## **FINDINGS OF FACT:**

1. Ms. Christina Ianni, Petitioner, presented the appeal on her own behalf.
2. Petitioner did not present a market approach, but presented an indicated value of \$100,000.00 for the subject property.
3. Ms. Ianni testified that there have been a lot of changes around her property that have contributed to its devaluation. The duplex that was built next door is encroaching on her property. The encroachment is due to the duplex developer digging up the existing fence and moving it about three feet closer to the subject property. Tearing up the fence also resulted in tree damage. Additionally, the duplex is so close that the neighbors can look into her windows and back yard. Respondent did not take the resulting litigation into consideration.
4. Ms. Ianni testified that all of the comparable properties provided by Respondent have a bedroom but the subject does not.
5. Ms. Ianni referenced Petitioner's Exhibit A, a letter from a local real estate agent that expresses structural and environmental concerns with regard to marketability of the subject.
6. In cross-examination, Ms. Ianni testified that her requested value of \$100,000.00 was based on a prior Board of Assessment Appeals hearing and includes a small increase to be consistent with the market. With regard to the agent's letter, Ms. Ianni testified she never asked for a value. As to the litigation, Ms. Ianni testified that nothing yet has been filed in court. Ms. Ianni thinks a buyer would not want to buy her property with these problems.
7. Upon questions from the Board, Ms. Ianni testified that the builder might have moved the fence for required setbacks. Although Petitioner has a lot description, she has not had the property surveyed.
8. Petitioner is requesting a 2003 actual value of \$100,000.00 for the subject property.

9. Respondent's witness, Mr. Rick Armstrong, a Certified Residential Appraiser with the Denver County Assessor's Office, presented an indicated value of \$120,000.00 for the subject property based on the market approach.

10. Respondent's witness presented three comparable sales ranging in sales price from \$155,500.00 to \$205,000.00 and in size from 644 to 686 square feet. After adjustments were made, the sales ranged from \$119,091.00 to \$121,432.00.

11. Referring to the sales comparison analysis shown in Respondent's Exhibit 1, page 7, Mr. Armstrong testified that the subject was in fair condition and that all of the comparable sales were in average condition. He took into consideration a condition adjustment for the cistern location, void and tunnel leading to the basement. A large adjustment was also made for functional inadequacies directed at the floor plan, specifically to the room used as a bedroom, which lacks a door.

12. Mr. Armstrong testified that he could not make an adjustment for the fence location since they assumed it to be correct. The value was based on the current legal description and they would have to wait until the litigation is finished. Mr. Armstrong testified that if the trees were dead it might affect value, but since they did not appear to be dead, he did not consider them.

13. Under cross-examination, Mr. Armstrong testified that he made an adjustment for the cistern and that he could not find any sales with a similar problem. As to whether the subject had a bedroom, Mr. Armstrong testified that there was a separate room that he classified as a bedroom even though it did not have a door.

14. In redirect, Mr. Armstrong testified that no adjustment was made for the trees since the value was as of a date certain and he did not notice any damage to the trees.

15. Respondent assigned an actual value of \$116,200.00 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 agrees with Petitioner that the subject has some unique features; however, Petitioner did not present any comparable sales for the Board's consideration. The Board understands Petitioner's concern regarding the location and proximity of the duplex to the subject, but no support or cost estimates were submitted to cure deficiencies so that an adjustment could be considered. This would also pertain to the location of the cistern void and tunnel to the basement as well as any damage to the trees.

3. The Board considered the letter from the real estate agent, but could place little weight on it because it does not address value.

4. Respondent presented relevant comparable sales and considered the functional and conditional aspects of the subject. Significant adjustments were made and the Board believes that the various issues were addressed and that the final value is supported.

5. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$116,200.00.

**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 9<sup>th</sup> day of March, 2004.

BOARD OF ASSESSMENT APPEALS

  
\_\_\_\_\_  
Judge Nuechter

  
\_\_\_\_\_  
Steffen A. Brown

This decision was put on the record

MAR 08 2004

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

  
\_\_\_\_\_  
Penny S. Lowenthal

