

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD POTTINGER,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard Pottinger Address: 256 Lakeshore Park Road Boulder, Colorado 80302 Phone Number: (303) 642-3633 E-mail: rp@docstyles.com</p>	<p>Docket Number: 42740</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 23, 2004, MaryKay Kelley and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Robert Gunning, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**256 Lakeshore Park Road, Boulder, Colorado
(Boulder County Schedule No. R0024935)**

Petitioner is protesting the 2003 actual value of the subject property, a rustic wood frame mountain cabin. The subject is located on a one-acre wooded lot approximately one-half hour from downtown Boulder. The subject consists of approximately 850 square feet, with one bedroom and one bathroom.

ISSUES:

Petitioner:

Petitioner contends that Respondent has overvalued the subject property. The sales used for comparison came from a model and were not adjusted appropriately to the subject. The Respondent did not give proper consideration for the overall condition and deferred maintenance. The subject is located within the flight path to Denver International Airport; the Respondent did not give consideration to the influence of the noise levels.

Respondent:

Respondent contends that the subject property has been correctly valued using the sales comparison approach. Adjustments have been made for all of the factors affecting the subject property. The sales selected for comparison are located within the subject's subdivision and share similar location issues.

FINDINGS OF FACT:

1. Mr. Richard Pottinger, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$102,500.00 for the subject property.
3. Petitioner presented six comparable sales ranging in sales price from \$102,500.00 to \$183,000.00 and in size from 480 to 952 square feet. After adjustments were made, the sales ranged from \$113,818.00 to \$147,705.00.
4. Mr. Pottinger testified that the subject property is a small rustic cabin located on a one-acre parcel. The structure is constructed of wood frame and a metal roof and has well water and electric heat. The cabin is considered to be in poor to fair condition. In 1990, the interior walls were rebuilt. Plans to remodel the kitchen, bathroom, bedroom and living room were also in progress. Approximately 50% of the remodeling was complete by June 30, 2002.
5. Mr. Pottinger testified that reconstruction and remodeling of the subject was stopped due to the increased noise level. The subject is located within the Denver International Airport flight pattern and the noise level has steadily increased since 1995.
6. Mr. Pottinger testified that Respondent's comparable sales are all superior to the subject. The Respondent has not taken the noise factor into consideration or given enough consideration to the condition of the subject and the repairs that are needed.
7. Mr. Pottinger testified that the sales he selected for comparison are more similar to the subject. All of the sales have similar wood frame construction and are of similar quality. Petitioner based his adjustments on those used by the Respondent with the exception of the adjustments he felt were not supported. Petitioner disagrees with Respondent's adjustments for lot size, location and view.

8. Mr. Pottinger testified that he adjusted the lot size to be half for the building area and the other half for the useable area. He found no data to support adjustments for location and view.

9. Mr. Pottinger testified that the subject is a crude, rustic cabin in poor condition. It is impossible to obtain any type of FHA financing. The property has been overvalued and could not be sold for the amount of Respondent's assigned value.

10. Petitioner is requesting a 2003 actual value of \$102,500.00 for the subject property.

11. Respondent's witness, Rachel Watts, a Licensed Residential Appraiser with the Boulder County Assessor's Office, presented an indicated value of \$200,000.00 for the subject property based on the market approach.

12. Respondent's witness presented three comparable sales ranging in sales price from \$205,000.00 to \$289,000.00 and in size from 768 to 1,168 square feet. After adjustments were made, the sales ranged from \$195,900.00 to \$229,500.00.

13. Ms. Watts testified that the subject property was valued using the market comparison approach. She could not obtain an interior inspection, but did perform an exterior inspection. All of the sales selected are located within the subject's subdivision and reflect the same noise and location issues. All of the sales are similar to the subject and adjustments have been made for all of the differences in physical characteristics.

14. Ms. Watts testified that the indicated value of the subject property is \$200,000.00. The value of the subject has been reduced over past appeals for condition issues. The assigned value of the subject property is \$130,900.00. The assigned value further takes into consideration any issues regarding the subject.

15. Ms. Watts testified that all of the sales were adjusted for time trending. This adjustment was based upon time trending factors from August 1, 1999 through December 20, 2000. All three sales were adjusted for condition and cost to cure. The difference in square footage was calculated at \$20.00 per square foot. The land area adjustment was based upon the lot size, utility and buildable area.

16. Ms. Watts testified that she had reviewed the sales presented by the Petitioner. Petitioner's comparable sales are not located within the subject's subdivision. None of these sales share the location issue and all have smaller lot sizes.

17. Under-cross examination, Ms. Watts testified that Sale 1 sold outside the desirable 18-month time frame. However, it was still within the extended time frame for consideration. It was considered to be more important to stay within the subdivision for comparable sales. If no other suitable sales could be found, then the market area could be expanded.

18. Respondent assigned an actual value of \$130,900.00 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. Based on the interior photos of the subject property, the Board agrees with the Petitioner that the subject is considered to be in poor condition with a high degree of construction work in progress. Although the Board agrees that a larger condition adjustment might be warranted, the Petitioner did not present any cost estimates for the remediation.

3. The comparable sales presented by the Petitioner could be considered suitable if no other sales had occurred in the subject's direct market area. However, after adjustments, Petitioner's sales support Respondent's assigned value.

4. The Respondent presented a well-documented and supported appraisal report. Adjustments have been made to all of the sales for differences in physical characteristics. Respondent's comparable sales are more credible; they reflect the market area and similar location issues.

5. The Respondent's assigned value reflects any additional factors affecting the overall value.

6. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value.

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 9th day of March, 2004.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Debra A. Baumbach

Debra A. Baumbach

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
Penny S. Lowenthal

