

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 43983

Petitioner:

DELORES M. BIERY,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 13, 2006, Sondra Mercier and Lyle Hansen presiding. Petitioner appeared pro se. Respondent was represented by Robert Clark, Esq. Petitioner is protesting the 2004 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1374 Woodhaven, Franktown, Colorado
Douglas County Schedule No. R0044361**

The subject property consists of a ranch style single-family residence situated on approximately 4.85 acres of land. The residence has 2,140 square feet of above grade living area, a 1,672 square foot walkout basement, and a 732 square foot built-in garage. The residence was built in 1987 and has a total of seven rooms including five bedrooms and four bathrooms.

FINDINGS OF FACT:

1. Respondent moved to dismiss the appeal on the grounds that the Board found Respondent had correctly valued the subject property for tax year 2003, and that Petitioner had cited no unusual condition to necessitate an adjustment in value for 2004, the intervening year in the biennial reassessment cycle. Respondent's motion was denied pursuant to the decision of the Colorado Court of Appeals in *Weingarten v. Board of Assessment Appeals*, 876 P.2d 118 (Colo. App. 1994) which states in pertinent part: “. . . regardless of any previous year's valuation or the

lack of any “unusual conditions,” a taxpayer has the statutory right to challenge a property tax valuation for each tax year, including the second year of a reassessment cycle . . .”

2. Petitioner is requesting that the value of the subject property be reduced to \$458,800.00. Although Petitioner did not present any evidence to substantiate the requested value, he did refer to an independent appraisal that concluded to a lower value than the value assigned to the subject property for tax year 2004.

3. Petitioner asserted that Respondent’s comparable sales do not address critical property and neighborhood characteristics. For example, Douglas County valued an adjacent property at 18% above its actual sale price, which Petitioner contends is indicative of the County’s failure to properly adjust for neighborhood characteristics.

4. The subject property has not been upgraded or remodeled since its construction in 1987.

5. Respondent presented an indicated value of \$495,000.00 for the subject property based on the market approach. Respondent assigned an actual value of \$495,000.00 for tax year 2004.

6. Respondent presented three comparable sales ranging in sales price from \$400,000.00 to \$560,000.00 and in size from 1,634 to 2,758 square feet. After adjustments, the sales ranged from \$473,832.80 to \$549,569.71. Respondent had not performed interior inspections of the subject property or of the comparable sales.

CONCLUSIONS OF LAW:

1. Based on the evidence and testimony presented on January 13, 2006, the Board determined that the subject property was incorrectly valued for tax year 2004.

2. The Board calculated the value of the subject property based on Respondent’s Comparable Sales 2 and 3, as they are most similar to the subject in age, style, condition, functional utility and location. The Board subtracted the quality adjustments from Sales 2 and 3, as Respondent did not substantiate the quality ratings of the subject or of the comparable sales and provided no corroborative evidence related to the quality adjustment calculations. The resulting adjusted sales prices of Respondent’s comparables are as follows:

Respondent’s Comparable Sales	Recalculated Adjusted Sales Price
3	\$383,969
2	\$459,831

3. The Board concluded that the actual value of the subject property should be reduced to \$460,000.00, the high end of the resulting range of sales.

4. This matter concerns the second year of a reassessment cycle. Although the Board ruled in favor of Respondent in the first year of the reassessment cycle, it is not bound to rule identically in the second year of a reassessment cycle. In making its determination of value for tax year 2004, the Board properly considered "any reasonable inferences and circumstances tending to weaken or discredit such evidence." *Snyder Family Trust v. Adams County Board of Equalization* 835 P.2d 579 (Colo. App. 1992). In the instant matter, Respondent's evidence was weakened by its failure to substantiate quality ratings and quality adjustment calculations.

ORDER:

Respondent is ordered to reduce the 2004 actual value of the subject property to \$460,000.00.

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 10th day of February 2006.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra Mercier

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

FEB 09 2006

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

