

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GRETCHEN VM ISZARD,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 74308</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 24, 2019, Debra Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Cameron E. Turpin, Esq. Petitioner is protesting the 2018 actual value of the subject property.

**105 Louise Placer Road, Breckenridge. Colorado
Summit County Schedule No. 100698**

The subject property is a 1,316 square-foot residence with a one-car detached garage. It was built in 1979 on a 0.53-acre gently sloping site in the Crown Subdivision 1.9 miles from Breckenridge. It is serviced by well and septic and accessed by a gravel road.

Respondent assigned an actual value of \$459,678 for tax year 2018. Petitioner is requesting a value of \$348,438.44.

Petitioner’s witness, Ethan H. Parker (Petitioner’s husband) presented a Sales Comparison Analysis with the same five comparable sales used by Respondent. Sale prices ranged from \$389,250 to \$477,000. After adjustments, sale prices ranged from \$268,275.68 to \$372,010.98 with an indicated value being the median or \$348,438.44.

Mr. Parker described the home’s physical deficiencies; deteriorating and leaking roof, substandard siding, non-functioning and missing baseboard radiators, rotting deck, carpenter ants in framing, leaking drain pan below balcony, gap between sliding window frames, uneven construction of floor system resulting in damaged wood flooring, rotting threshold, and deteriorating fascia. In

contrast to the Assessor's condition rating of "average" (D), he considered condition to be "fair" (E) and applied adjustments to all comparable sales at 22% (percentage provided by the Assessor).

Mr. Parker described the subject's exterior "hardboard" (particle board) siding as substandard. Original to the house, hardboard was popular in the 1980s and 1990s, found to be low quality, and is no longer manufactured due to class action lawsuits against manufacturers and subsequent settlements. Mr. Parker described below-grade contact with soil that has resulted in decaying, water saturation, and penetration into the floor framing. Petitioner applied 2% adjustments to all comparable sales, which were built with wood board and batten siding. Mr. Parker acknowledged that the impact on marketability and value was "intangible"

With regard to personal property (furnishings), Mr. Parker stated that the MLS reported all comparable sales to be partially or fully furnished and that the Assessor's appraiser failed to make any adjustments for personal property. He stated that, if purchasers do not report personal property values, the appraiser can neither omit an adjustment nor estimate value, assuming value exists. Doing so would violate USPAP rules by which appraisers are bound. Petitioner applied adjustments of 2% (partially furnished) to 3% (fully furnished) for each of the five comparable sales, considering these adjustments "reasonable".

Petitioner made additional adjustments for topography (steep slope), view, proximity to Highway 9, heat source (electric vs. gas), effective age, land, and improvement size, as follows:

- Topography (Sales One, Two and Five): Petitioner halved Respondent's adjustment for steep slopes because, according to the witness's testimony, "a steep slope doesn't affect overall utility".
- View (Sales One and Three): Defining the subject view as average, Petitioner rated Sale One's view as unobstructed and Sale Three's view as superior (wetlands and the Ten Mile Range). He applied 9% adjustments to each.
- Miscellaneous/highway proximity (Sale Two): Petitioner applied a positive 3% adjustment to this sale for its proximity to Highway 9, arguing that the view of cars and trucks and the traffic noise were not as severe as determined by Respondent.
- Heat Source (Sale Three): Petitioner applied a negative 3% adjustment for this home's forced air heat, considering it superior to the subject's electric system.
- Effective Age (Sale Three): Petitioner disagreed with the Assessor's determination of a 40-year effective age based on original construction in 1965 plus extensive remodeling and two additions. Petitioner concluded to a 30-year effective age and adjusted at 7% in comparison with Respondent's 3%.
- Land (Sales Two and Four): Petitioner objected to the Assessor's use of the allocation method to estimate site value, arguing that it involves subjective assumptions and can result in an uneven pattern of land values. Also, Petitioner noted that while improvement values increased, land values decreased, suggesting improper methodology. Petitioner also argued that the land adjustment for Sale Two was already addressed in the topography adjustment.

- Improvement Size (Sale Five): Petitioner stated that the Assessor used both 1,943 square feet over the years without substantiation. He claimed that 1,855 square feet was the correct figure.

Respondent's witness, Michael W. Peterson, Certified General Appraiser for the Summit County Assessor's Office, presented a Sales Comparison Analysis. Following adjustments, sale prices ranged from \$408,841 to \$489,725. Mr. Peterson concluded to an indicated value of \$459,678, the median.

With regard to the home's physical condition and based on interior inspections in 2017 and 2018, Mr. Peterson rated the subject's condition as "average" (E), defined as "[s]ome evidence of deferred maintenance and normal obsolescence with age in that a few minor repairs are needed, along with some refinishing". On the other hand, "fair" (D) rating is defined as "[b]adly worn" with "[m]uch repair needed. Many items need refinishing or overhauling, deferred maintenance obvious, inadequate building utility and services all shortening the life expectancy and increasing the effective age". Based on inspection, he concluded as follows; a functioning roof with no evidence of leakage, deck in need of paint but no evidence of rot, windows and doors in need of some repairs, no evidence of compromised siding, baseboard heaters easily replaced, no evidence of infestation, and remaining items easily addressed as deferred maintenance. He noted that major structural, utility, and service items were intact and easily addressed if need be. While acknowledging average to below average condition, he did not find that a "fair" rating was warranted.

With regard to personal property, Mr. Peterson discussed the TD-1000 form, a confidential reporting of the "price" of furnishings submitted by all purchasers. Sale prices (used by both parties) in this report reflect deductions for personal property as reported by purchasers. Based on MLS data, original sale prices and purchaser-reported personal property prices were as follows: Sale One \$459,000 (\$2,000), Sale Two \$485,000 (\$8,000), Sale Three \$450,000 (\$2,970), Sale Four \$390,000 (\$750), and Sale Five \$463,500 (\$0).

With regard to the subject's hardboard siding, Mr. Peterson acknowledged the history with hardboard siding but testified that the Assessor's office has concluded that the typical purchaser views siding constructed of all wood or wood by-products equally (other than log). At time of inspection, he found no evidence of rotting or compromised integrity other than improperly-applied paint, and he noted that mitigation requiring board replacement is considered normal deferred maintenance. He had no market data to support adjustments for "superior" board and batten siding, whether solid wood or T1-11 (plywood).

Mr. Peterson responded to Petitioner's adjustments for the comparable sales as follows:

- Topography (Sales One, Two and Five): Mr. Peterson explained that his 5% adjustment for steep slopes reflects higher construction costs, less usable ground, and the possibility of a superior view with less obstruction due to elevation of the improvement. His adjustments were derived by market research and multiple regression analysis.

- View (Sales One and Three): Mr. Peterson reported view ratings as follows: 3 as average (treed, limited mountain view, some obstruction from homes/structures and trees); 4 as good (somewhat panoramic with little obstruction); 5 as excellent (primarily unobstructed, expansive views). Disagreeing with Petitioner, he stated that Sale One's view was similar to the subject, treed and looking onto other houses with a limited mountain view and not superior to the subject. According to Respondent, Sale Three's view was also similar to the subject (predominantly treed), requiring no adjustment.
- Miscellaneous/highway proximity (Sale 2): This 10% adjustment addressed proximity to Hwy 9 (visible in Exhibit B, page 22) reflecting visual and audio impact. It was derived by market research and multiple regression analysis.
- Heat (Sale Three): Market research convinced Mr. Peterson that this sale's gas forced air heating did not carry greater value; thus, no adjustment was made.
- Effective Age (Sale Three): Mr. Peterson testified that this home's effective age was determined to be 40 years (built in 1965; 2007 addition and remodel), not 30 years per Petitioner.
- Land (Sales Two and Four): Mr. Peterson discussed land allocation valuation, which is defined by the Division of Property of Taxation with adherence to State regulations. This value reflects the contribution of the site to the total value of the property. It is derived by multiple regression analysis and compared to vacant land values in the same area.
- Improvement Size (Sale Five): Improvement size reflects an 88 square foot difference (1,943 square feet per Respondent and 1,855 square feet per Petitioner). It is a difference of opinion, and the Assessor's Office does not disagree with 1,855 square feet.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2018.

Based on descriptions of the subject residence by both parties, the Board agrees with Respondent's conclusion of "average to below average" condition. The Board does not find a rating of "fair" to be supported; major structural and utility items remain intact, and other items are fairly easily repaired or replaced. Respondent's witness was unaware of infestation, and the Petitioner did not provide an inspection report or cost to mitigate.

The Board acknowledges Petitioner's discussion of hardboard and the damage to which it can be subjected, especially below grade, due to its substandard construction. Respondent's witness, Mr. Peterson, found no evidence of rotting or compromised integrity, and Petitioner provided neither documentation of professional inspection nor repair estimates. Also, the Board is convinced that mitigation is likely to involve repair and installation of solid wood boards, which, when painted, should be visibly similar to the rest of the siding.

The Board finds that Petitioner's adjustments for personal property (2% and 3%) are arbitrary. The Board is convinced by Mr. Peterson's testimony and exhibits that the "prices" paid for

furnishings reported by purchasers constitute factual data and that sale prices reported by both parties were adjusted accordingly.

The Board finds Respondent's adjustment for topography (steep slope) for Sales One, Two and Five are supported by market research and multiple regression analysis. While Petitioner halved Respondent's adjustment, stating that "a steep slope doesn't affect overall utility", the Board finds that Respondent's adjustments appropriately address higher construction costs, less usable ground, and often a superior view with fewer obstructing trees.

The Board agrees with the parties that the subject's view is average (treed and looking onto other houses). This description conforms to the Assessor's rating as a "3" (trees, limited mountain views restricted by homes or trees). While Respondent's photo shows a mountain in the distance for Sale One, the Board agrees with Respondent's appraiser that the overall view does not meet the definition of a "4" rating (requires "little obstruction"). Further, Petitioner did not support adjustments of 9% for "4" view ratings for Sales One and Three. Photos support a "3" rating.

The Board agrees with Respondent's adjustment for Sale Two's proximity to Highway 9 and related noise and visual impact. The Assessor supported the 10% adjustment with market data and multiple regression analysis, whereas Petitioner provided no support for the 3% adjustment.

The Board acknowledges Petitioner's argument about the market's reaction to gas forced air heating and electric baseboard heating. However, Petitioner provided no support for the 2% adjustment for Sale Three, whereas the Assessor's witness testified to market research and multiple regression analysis.

The Board finds Respondent's support for Sale Three's effective age of 40 years to be persuasive, whereas Petitioner provided neither explanation nor support for a 30-year effective age.

Overall, the Board finds Respondent's value conclusion well supported and Petitioner's concerns answered convincingly.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of

the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 9th day of May, 2019.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

Milla Lishchuk

Milla Lishchuk

