

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RANDY J. PACE,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 75487</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 30th, 2019, Diane M. DeVries and Samuel M. Forsyth presiding. Mr. Edward A. Ahlstrand appeared on behalf of Petitioner. Respondent was represented by Katherine M. Parker, Esq. Petitioner is protesting the 2019 actual value of the subject property.

EXHIBITS AND WITNESSES

The Board admitted Petitioner’s Exhibits 1-9. The Board also admitted Respondent’s Exhibits A-C and Rebuttal Exhibits D & E. Respondent presented expert testimony by Melody Woolsey, Certified Residential Appraiser with the Eagle County Assessor’s Office, as to the appraisal report that she prepared in valuing the subject lot for tax year 2019.

DESCRIPTION OF THE SUBJECT LOT

**907 Webb Peak, Edwards, CO
Eagle County Schedule No.: R049814**

The subject property is classified as vacant land. The subject lot is 5.656 acres, and it slopes from Webb Peak Drive on the east downward (westerly) toward the building envelope on the west. The building envelope is below the road. To the east, it backs to a stand of trees which would block the view to the east from a residential improvement. There are views to the south

and to the north. The subject property lies in the development of Cordillera, a gated golf community. Cordillera has been stymied by bankruptcy and lawsuits. Several of the golf courses were either not developed as planned, or were developed and have ceased operation. Cordillera consists of filings creating four separate neighborhoods, each with its own unique characteristics and amenities. The neighborhood in which the subject property is located is called the Summit.

The subject property’s actual value—as assigned by Respondent, as requested by Petitioner, and as determined by this Board—are:

Respondent’s Assigned Value:	\$250,000
Petitioner’s Requested Value:	\$ 75,000
Board’s Determined Value:	\$200,000

BURDEN OF PROOF

In a proceeding before this Board, the taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the assessor’s valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Proof by a preponderance of the evidence means that the evidence of a circumstance or occurrence preponderates over, or outweighs, the evidence to the contrary. *Mile High Cab, Inc. v. Colorado Public Utilities Commission*, 302 P.3d 241, 246 (Colo. 2013). The evaluation of the credibility of the witnesses and the weight, probative value, and sufficiency of all of the evidence are matters solely within the fact-finding province of the BAA, whose decisions in such matters may not be displaced on appeal by a reviewing court. *Gyurman v. Weld Cty. Bd. of Equalization*, 851 P.2d 307, 310 (Colo. App. 1993).

THE BOARD’S FINDINGS AND CONCLUSIONS

I. Time Trends

Under section 39-1-104(10.2)(a), C.R.S. (2019), county assessors are required to collect and analyze sales that occurred within an 18-month period. If sufficient sales are not available during the 18-month period to adequately appraise the property, the assessor may use sales that occurred in preceding 6-month increments for a total maximum period of 5 years. *See id.*

Petitioner contends that Respondent’s value fails to adequately account for negative value implications of external obsolescence of the developer’s bankruptcy. In support thereof, Petitioner presented sales history data of vacant building sites within the Summit filing of Cordillera from their original sale prices to the most recent sale prices. However, the Board finds that Petitioner’s sales history data relies on sales that occurred prior to the statutory data collection period and are therefore inapplicable. Although the statutory 5-year period for properties appraised in the 2019 tax year begins on June 30, 2013 and ends on June 30, 2018,

many of Petitioner’s comparable sales date back to 2000. After excluding the sales that are inapplicable for occurring prior to the statutory data collection period, the Board finds that Petitioner’s negative time trend analysis lacks substance and relevance.

The Board also finds that Respondent’s positive time trend evidence (Ex. D and E) is not credible, because Respondent’s witness did not testify to this evidence and because it is inconsistent with Respondent’s expert appraisal report (Ex. A, pp. 5 and 17), which concluded to no time trend.

Insufficient credible evidence was presented to this Board to prove any time trend, either positive or negative. Without supporting data for a time trend adjustment, it is appropriate that none be applied.

II. View Adjustments

Petitioner contends that Respondent’s value fails to adequately account for negative value implications of obstructed views from the subject lot. We agree. The Board finds that east views have a premium value in this development. However, the Board also finds that the subject is one of two vacant sites which slope downward from Webb Peak Drive. As a result, the building envelope of each of these sites has obstructed views of the mountains to the east.

The Board sees little support for Respondent’s view adjustments on its comparable sales, especially for the significantly higher adjustment made to comparable sale 4. Although the parties agreed that both view and slope were key components of value in the market, and although Respondent adjusted for view and slope on all four of its comparable sales, Respondent did not identify its adjustments as to those variables individually. Instead, Respondent’s adjustments were presented in such a way that adjustments for slope and adjustments for view were combined into one topography variable, as follows:

<u>Sale</u>	<u>Date of Sale</u>	<u>Sale Price</u>	<u>Topography*</u>	<u>Adj. Value</u>
1	10/2017	\$350,000	-\$100,000	\$250,000
2	3/2017	\$285,000	-\$ 40,000	\$245,000
3	11/2017	\$290,000	-\$ 40,000	\$250,000
4	9/2016	\$100,000	+\$100,000	\$250,000

*slope and view are combined as one adjustment on the topography variable.

Due to the combination of adjustments for both view and slope into one variable, Respondent’s adjustments are not persuasive. The Board finds, by a preponderance of the evidence, that Respondent’s assigned value of the subject property is incorrect with respect to view adjustments.

III. Board's Determined Value

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2019. However, the Board is not persuaded to adopt Petitioner's requested value, because that value does not include any adjustments and furthermore was not supported by any map or appraisal.

The Board finds that, of Petitioner's eight comparable sales, four have superior views and four have inferior views relative to one another. The Board concludes that the slope of the subject property is equivalent to the slope of the superior-view comparable sales. The Board also concludes that the views enjoyed by the subject property are equivalent to those of the inferior-view comparable sales.

The four comparable sales with superior views range in sale price from \$285,000 to \$375,000, with a median of \$320,000. *See* Ex. A, p.18, and Ex. 4, p.1. The four comparable sales with inferior views range in sale price from \$70,000 to \$100,000, with a median of \$80,000. *See id.* The average of these median sale prices is \$200,000. The Board concludes that the market value of the subject site is \$200,000.

ORDER

Petition is GRANTED. Respondent is ordered to reduce the 2019 actual value of the subject property to \$200,000. The Eagle County Assessor is directed to change its records accordingly.

APPEAL RIGHTS

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. 2019.

DATED and MAILED this 25th day of March, 2020.

BOARD OF ASSESSMENT APPEALS:

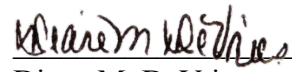
Drafting Board Member:






Samuel M. Forsyth

Concurring Board Member:



Diane M. DeVries,
*Concurring without modification
pursuant to § 39-2-127(2), C.R.S.*

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



Jacqueline Lim