

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 75584</b>
Petitioner:  <b>JOHN B. PARKER,</b>  v.  Respondent:  <b>WELD COUNTY BOARD OF EQUALIZATION.</b>	
<b>ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on March 5<sup>th</sup>, 2020, Samuel Forsyth and Diane M. DeVries presiding. John Parker appeared in pro se. Respondent was represented by Karin McDougal, Esq. Petitioner protests the valuation of the subject property for tax year 2019.

**EXHIBITS AND WITNESSES**

The Board admitted Petitioner’s Exhibit 1, Respondent’s Exhibit A, and expert testimony by Respondent’s witness Duane M. Forbson, Ad Valorem Appraiser employed by the Weld County Assessor.

**DESCRIPTION OF THE SUBJECT PROPERTY**

6425 Eagle Butte Avenue, Frederick, Colorado  
Weld County Schedule No.: 63282-02-025

The subject property is a single-family residence in the town of Frederick, and it is classified as residential property. It is a ranch-style one-story home of average quality construction. The interior is in average condition. The subject property has an unfinished basement consisting of 2,064 square feet.

The subject property’s actual values, as assigned by the County Board of Equalization (“CBOE”) below and as requested by the parties, are:

CBOE's Assigned Value: \$421,903  
Respondent's Requested Value: \$422,000  
Petitioner's Requested Value: \$370,000

### **BURDEN OF PROOF AND STANDARD OF REVIEW**

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, 204 (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 Comm'n*, 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 this Board, 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 determination of the degree of comparability of land sales and the weight to be given to the various physical characteristics of the property are questions of fact for the Board to decide. *Golden Gate Dev. Co. v. Gilpin Cty. Bd. of Equalization*, 856 P.2d 72, 73 (Colo. App. 1993).

The Board reviews every case de novo. *See Bd. of Assessment Appeals v. Valley Country Club*, 792 P.2d 299, 301 (Colo. 1990). In general, the de novo proceeding before the Board "is commonly understood as a new trial of an entire controversy." *Sampson*, 105 P.3d at 203. Thus, any evidence that was presented or could have been presented in the board of equalization proceeding may be presented to the Board for a new and separate determination. *Id.* However, the Board may not impose a valuation on the property in excess of that set by the CBOE. § 39-8-108(5)(a), C.R.S. (2019).

### **APPLICABLE LAW**

In valuing residential real properties for tax purposes, value must be determined solely by the market approach to appraisal. Colo. Const. art. X, § 20(8)(c); § 39-1-103(5)(a), C.R.S. (2019). The market approach relies on comparable sales, as required under section 39-1-103(8)(a)(I), C.R.S. (2019), which states:

Use of the market approach shall require a representative body of sales, including sales by a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes.

To identify comparable sales, county assessors are required to collect and analyze sales that occurred within an 18-month period. *See* § 39-1-104(10.2)(a), C.R.S. (2019). If sufficient

comparable 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.*

### **THE BOARD'S FINDINGS AND CONCLUSIONS**

Petitioner offered no appraisal, comparable sales, or other market data to substantiate the requested lower value. Instead, Petitioner expressed doubt as to the efficacy of appraising to determine the market value of a property for property tax periods. Petitioner characterized the general practice of appraisal as no more than a 'guess.' Petitioner contends that the only reasonable way to determine the value of a property in the current year for property tax purposes is to apply an appreciation factor to a previous value. Previously, for tax year 2017, Petitioner had appealed the value of this property to this Board, and before we ruled on the merits, Petitioner and the Weld County Board of Equalization entered into a value agreement of \$340,000. In the appeal before us today, Petitioner applied the 18-month time-trend factor established by the County of .459% per month to the stipulated value in 2017 to arrive at a requested value of \$368,090, rounded to \$370,000.

The Board finds that Petitioner's proposed methodology, which relies on a previous value for a previous data collection period and for a previous tax year, does not conform to statute, which requires the sales comparison approach. Applying a factor to a previous tax year's value to establish a value for the current tax year has no basis either in sound appraisal practice or Colorado law.

The Board also finds that Petitioner has refused to allow either Respondent or the Assessor to inspect the subject property's interior since 2011. As a result, Respondent properly relied instead on the best information available. Based on Petitioner's testimony on cross-examination as to why he refused to allow an interior inspection, the Board finds that the most probable explanation for Petitioner's refusal of such an inspection is that his claims cannot be substantiated. As a result, the Board finds that Petitioner's claims regarding quality of the interior—i.e., that the finishes inside the subject property are of lower quality than the finishes inside Respondent's comparables—is not credible.

Respondent provided an appraisal that conformed to the Uniform Standards of Professional Appraisal Practice, and presented expert testimony by its authoring appraiser. The appraiser identified three residential properties that sold within the development. These three comparable sales are all within three blocks of the subject. The subject is a ranch style-home; all of the comparables are ranch-style homes. Two of the comparables have above-grade square footage the same as the subject; one of the comparables is 205 square feet larger. Two of the comparables have unfinished basements like the subject; one has a finished basement. One comparable sale has a basement that is smaller than that of the subject. All have three-car garages. The appraiser made adjustments for basement size, basement finish, and square footage. The gross percentage adjustments of the comparables ranges from 0% to 8.61%. The net

adjustments of the comparables are -3.12%, 0%, and -4.07%. Two of the sales occurred during the 18-month data collection period; one of the sales occurred 17 days prior to this period. Respondent's appraisal included analysis of the time trend established for this area of Weld County. The Board finds that Respondent's time adjustment analysis is credible. Time adjustment for all of the comparables is .459% per month.

Respondent's appraisal is sound and provides compelling evidence of the value of the subject. The comparables are all appropriate—all are ranch style homes, all are similar in architecture and condition, all are proximate to the subject, and all require minimal adjustments. Two of the comparables are within the statutory 18-month time frame, one is just outside the time frame. The Board finds that Respondent's appraiser had insufficient comparable sales within the 18-month data collection period; we conclude that his reliance on the comparable sale prior to this period was appropriate. Respondent provided reliable and compelling background to explain how the time trend for this part of Weld County was established. The Respondent's expert exhibits and testimony provide compelling and reliable analysis of the value of the subject. Summarily, the Board finds that the actual value of the subject property for tax year 2019 is \$422,000, as requested by Respondent. However, the Board will not raise the valuation of the property above that set by the CBOE in the hearing below, which is \$421,903.

### **ORDER**

The petition is denied.

### **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.

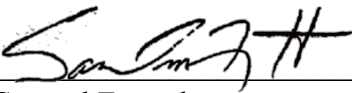
Section 39-8-108(2), C.R.S. (2019).

**DATED and MAILED** this 16<sup>th</sup> day of April, 2020.

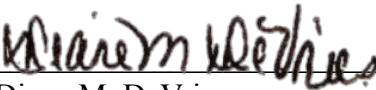
**BOARD OF ASSESSMENT APPEALS:**



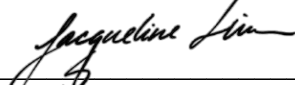
Drafting Board Member:

  
\_\_\_\_\_  
Samuel 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.

  
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Jacqueline Lim