

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 75980

Petitioner:

DAVID W. TILNEY,

v.

Respondent:

TELLER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 3, 2019, Debra A. Baumbach and Sondra Mercier presiding. Petitioner appeared pro se. Respondent was represented by Matthew A. Niznik, Esq. Petitioner is protesting the 2019 actual value of the subject property.

Dockets 75980 and 75981 were consolidated for purposes of the hearing only. Petitioner's Exhibit 1 and Respondent's Exhibits A-K were admitted as evidence.

Subject property is described as follows:

**171 Wolverine Drive, Cripple Creek
Teller County Schedule No. R0024637**

The subject is a 1.13-acre parcel of vacant land located in the Wildhorn subdivision. The site has average ground cover, moderate topography, and average views. The area was damaged in the Hayman fire, and a concrete block foundation and a septic tank (Permit T-1562) remain on the site.

Petitioner is requesting an actual value of \$9,300 for the subject property for tax year 2019. Respondent assigned a value of \$12,324 for the subject property for tax year 2019; but is recommending a reduced value of \$11,500.

Petitioner presented 2019 Real Property Notices of Valuation (NOV) for four comparable sales. The NOVs identified the parcel sizes and assessor's actual value indication; however, there was no indication as to sales price, date of sale, or property features provided to support these as

sales. Petitioner contends that the value of the subject lot is diminished by the cost to remove the septic tank and remnants of the block foundation. Petitioner provided no estimate of cost for removal of these items.

Respondent's witness, Pamela Killebrew, Certified General Appraiser with the Teller County Assessor's Office presented four comparable sales ranging in sale price from \$10,000 to \$13,500 and in size from 1.00 to 1.39 acres. After adjustments were made, the sales indicated a value range from \$10,452 to \$14,505 for the subject, with a median of \$11,775 and a mean of \$12,127. Ms. Killebrew testified that according to the Teller County Building Department, the septic tank and footers might be usable for future construction depending on prospective building size; therefore, she made no adjustment to the comparable sales for this item. Respondent's sales 2, 3 and 4 were also referenced by Petitioner.

Respondent assigned an actual value of \$12,324 to the subject property for tax year 2019; but, is recommending a reduced value of \$11,500.

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 202, 208 (Colo. 2005). Although Petitioner testified to four sales he believed comparable, he provided no analysis of the sales compared to the subject. Respondent's sales included three of the sales referenced by Petitioner. After adjustment, these three sales indicated a value range of \$10,452 to \$14,505. The Board was not swayed by the evidence presented by Petitioner.

Respondent's witness, Ms. Killebrew, correctly completed a site-specific market analysis of the subject property, comparing sales of similar properties and adjusting for dissimilarities compared to the subject. The Board found the comparable sales analysis and testimony presented by Respondent's witness compelling. Sufficient probative evidence and testimony was presented to support the reduction to Respondent's recommended value of \$11,500.

ORDER:

Respondent is ordered to reduce the 2019 actual value of the subject property to \$11,500.

The Teller County Assessor is directed to change his/her records accordingly.

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.

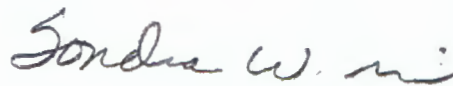
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

DATED and MAILED this 12th day of December, 2019.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Sondra W. Mercier

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


Milla Lishchuk

Concurring Board Member:



Debra A. Baumbach,
*concurring without modification pursuant to
Section 39-2-127(2), C.R.S.*