

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 76565</b>
Petitioner:  <b>BOYD &amp; CAROLYN ADAMS FAMILY REVOCABLE LIVING TRUST,</b>  v.  Respondent:  <b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b>	
<b>ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 27, 2020, Amy Williams and Debra A. Baumbach presiding. Boyd Adams appeared on behalf of Petitioner. Respondent was represented by Cameron Turpin, Esq. Petitioner is protesting the 2019 valuation of the subject lot.

**EXHIBITS AND WITNESSES**

The Board admitted into evidence Petitioner’s Exhibits 1 and 2 and Respondent’s Exhibit A. The Board designated as an expert Respondent’s witnesses Linda Burnett, who holds a Certified Residential appraiser license and is employed by the Summit County Assessor’s Office.

**DESCRIPTION OF THE SUBJECT PROPERTY**

Subject Property Address: 42 Skyline Drive, Unit 1763, Dillon, Colorado  
Subject Property Description: Unit 1763 Lookout Ridge Townhomes Phase 3  
Summit County Schedule No.: 6503466

The subject property is a residence in the subdivision of Lookout Ridge Townhomes in Summit County. The home has a total of 1,873 square feet. The subject property’s actual values as assigned by the County Board of Equalization (CBOE) below and as requested by each party are:

CBOE’s Assigned Value: \$ 646,081  
Respondent’s Requested Value: \$ 656,081  
Petitioner’s Requested Value: \$ 605,828

## **BURDEN OF PROOF**

In a proceeding before the Board, the taxpayer has the burden of proof to establish, by a preponderance of 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 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 the Board of Assessment Appeals, 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).

## **APPLICABLE LAW**

In valuing residential properties, Colorado's statutes and constitution require that the valuation of residential property be determined solely by the market approach to appraisal. Colo. Const. art. X, § 20(8)(c); § 39-1-103(8)(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.

The Board of Assessment Appeals 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).

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

Petitioner did not provide comparable sales to support its requested value. Rather, Petitioner asserted that an inflation factor of 0.9 percent per month should be applied to his prior, 2016 value of \$524,436 as assigned by the Summit County Assessor's Office. Given that there is a total of 24 months between the 2016 value and the current value, specifically, June 30, 2016 to June 30, 2018, Petitioner is requesting an increase of 21.6 percent (0.9 percent x 24 months = 21.6 percent) be applied to his prior value of \$524,436, resulting in a value of \$637,714. However, Petitioner then applied an additional five percent deduction for the negative impact of the subject's adjacency to US Highway 6. Petitioner is, therefore, requesting a value for the subject of \$605,828 for tax year 2019.

Because Colorado's statute and constitution require the use of the Sales Comparison Approach for determining the valuation of residentially classified real property, Petitioner's application of an inflation factor to a prior year actual value is inappropriate. And, even if Petitioner's application of an inflation factor were assumed to be correct, an additional deduction for highway impact could not be subtracted. Inherent in the use of an inflation factor upon a prior year value is the assumption that the prior year value was accurate and inclusive of all market forces upon, and all characteristics of, the subject property.

Respondent selected five comparable sales with time adjusted sale prices ranging from \$524,285 to \$624,817. After adjustment, the sales indicated a range of value for the subject between \$621,739 and \$711,470. The comparable sales utilized were all located within the subject's subdivision, Lookout Ridge Townhomes, and documentation was provided to support the time adjustment applied.

The Board finds Respondent appropriately employed the Sales Comparison Approach to value. Additionally, reasonable adjustments to the comparable sales, accounting for the differences between the comparables and the subject, were applied. Specifically, and counter to Petitioner's contention, a five percent downward adjustment for highway impact was utilized. Said adjustment accounted for the negative highway impact of the subject's location relative to the superior locations of the comparables.

The Board finds Respondent's value via the sales comparison approach to be credible. Summarily, the Board concludes that the preponderance of the evidence and testimony supports the value of \$656,081 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 \$646,081.

### **ORDER**

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 8<sup>th</sup> day of April, 2020.


**BOARD OF ASSESSMENT APPEALS:**



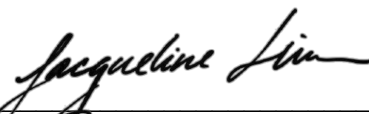
Drafting Board Member:

  
\_\_\_\_\_  
Amy Williams

Concurring Board Member:

  
\_\_\_\_\_  
Debra A. Baumbach  
*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