

Respondent's Recommended Value: \$ 763,510
Petitioners' Requested Value: \$ 713,229
Board's Concluded Value: \$ 763,510

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 county board of equalization (CBOE) proceeding may be presented to this 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.

APPLICABLE LAW

For property taxation purposes, the value of residential properties must be determined solely by the market approach to appraisal. *See* Colo. Const. art. X, § 20(8)(c); § 39-1-103(5)(a), C.R.S. The market approach relies on comparable sales, as required under section 39-1-103(8)(a)(I), C.R.S., 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.

FINDINGS AND CONCLUSIONS

Petitioners (through Mr. Garson) did not offer evidence of the subject property's value, in the form of comparable sales or otherwise, but rather offered a review and critique of Respondent's selected comparables. Said review included modified adjustments based upon Mr. Garson's

accounting and construction experience, and based upon Petitioners' contention that the subject residence is inferior to Respondent's selected comparables. Mr. Garson also testified that 5789 Crestbrook Circle should not be used as a comparable due to the small, unfinished basement area and smaller above grade square footage of this comparable. While Mr. Garson did offer photos and Multiple Listing Service information on Respondent's comparables, no photographs of the subject were provided within Petitioners' Exhibits 1 through 7.

The three comparable sales presented by Respondent range in time adjusted sale price from \$761,137 to \$965,302, and range in above grade square footage from 1,793 to 2,346. Based on the similarities in age, style, above and below grade square footage, and location between each of these comparable sale properties and the subject property, the Board finds that these sales are appropriately representative of the subject property's value under the market approach. Several exterior photos and two interior photos of the subject property were included in Respondent's Exhibit A.

Respondent presented expert testimony by Greg Ketcham, a licensed appraiser employed by the Jefferson County Assessor's Office, who testified in relevant part that the sales selected were from the same neighborhood, and selected with particular attention to age and construction style, specifically single level ranch construction.

The Board places more weight on the evidence presented by Respondent than on the evidence presented by Mr. Garson, primarily because Respondent provided a property-specific appraisal utilizing reasonable comparable sales. Mr. Garson questioned the degree of comparability of one of the comparable sales Respondent presented, and argued that the remaining two comparables used in Respondent's appraisal were far superior to the subject. However, he offered no evidence relative to the specific conditions and characteristics of the subject to support the significant downward adjustments he argues should be applied to Respondent's comparable sales.

Petitioners presented insufficient probative evidence to prove that the subject property was incorrectly valued for tax year 2019. The Board concludes that Petitioners have failed to meet their burden of proving that the assigned value for tax year 2019 is incorrect.

ORDER

The petition is DENIED. The subject property's value for tax year 2019 shall remain at \$763,510.

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.

See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); *see also* § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

DATED and MAILED this 8th day of September, 2020.

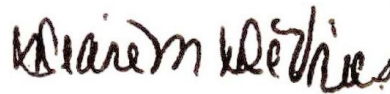
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Amy J. Williams

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 order of the Board of Assessment Appeals.



Casie Stokes