

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 78851
Petitioners: DAN AND LINDA DALEY, v. Respondent: DOUGLAS COUNTY BOARD OF EQUALIZATION	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on July 8, 2020, Louesa Maricle and John DeRungs presiding. Petitioner Dan Daley appeared pro se for Petitioners. Respondent was represented by Megan Taggart, Esq. Petitioners protest the actual value of the subject property for tax year 2019.

EXHIBITS

The Board admitted into evidence Petitioners’ Exhibits 1-28, Rebuttal Exhibits 1-22, and Respondent’s Exhibit A.

DESCRIPTION OF THE SUBJECT PROPERTY

7291 Cameron Circle, Larkspur, Colorado
County Schedule No.: R0067918

The subject property is a single-family residence in the Sage Port subdivision built in 2017 on almost one acre. Unlike the traditional ranches generally found here, it is a raised ranch-style home, with a 2,308 square foot main level whose stairway rises one story to reach the front door. Most of the fully elevated (above grade) lower level is an oversized garage of 1,727 square feet for at least four cars and the remaining 567 square feet is finished living area.

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

CBOE's Assigned Value:	\$665,000
Petitioners' Requested Value:	\$590,946

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

The Board heard the testimony of Petitioner Dan Daley for Petitioners, and the expert testimony of Rebecca Dockery, Residential Appraiser with the Douglas County Assessor's Office, for Respondent.

Petitioner argued that the Assessor and Respondent improperly valued the subject, and failed to select the required “representative body of sales,” due to their selection of sales of traditional ranch style residences rather than raised ranch style residences. Petitioner presented six raised ranch style sales in support of his requested value. (Exhibit 25, pages 28-30.) Only one sale, 961 Tenderfoot Drive, was located in the subject property’s Sage Port neighborhood.

Ms. Dockery also selected 961 Tenderfoot Drive as a comparable, but testified she did not give it any weight, due to its age and a date of sale outside of the study period. Ms. Dockery’s four additional sale comparables were traditional ranch style residences located in the Sage Port neighborhood. In support of her selection of traditional ranch style sales rather than raised ranch style sales, Ms. Dockery testified that the market does not treat raised ranch style residences differently than traditional ranches based on that factor alone. She did not believe it was necessary to differentiate between the two styles or go outside the subject property’s neighborhood in selecting comparables. She testified that the location was a key factor in her selection of sale comparables.

The Board was not convinced by Petitioner’s argument that the Assessor and Respondent overvalued the subject property by failing to select raised ranch style residences as comparable sales. The Board was not persuaded that raised ranch style residences sell for less in the market than traditional ranch style residences. The Board finds that Petitioner’s decision to select sales outside the Sage Port neighborhood in order to focus on raised ranch sales data was unnecessary, and improperly discounted the influence of location on the valuation of the subject property. As a result, the Board was not convinced that Petitioner’s comparable sales support his requested value.

The Board finds the Petitioners have not met their burden of proving that the assigned value for tax year 2019 is incorrect.

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.

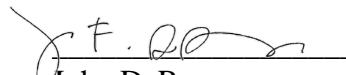
See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); *see also* § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

DATED and MAILED this 6th day of January, 2021.

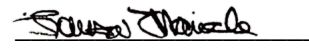
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:

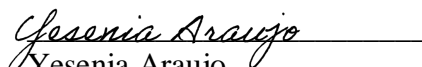



John DeRungs

Concurring Board Member:


Louesa Maricle
*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.


Yesenia Araujo