

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LEE B. WOODBURY,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 78882</p>
<p>FINAL AGENCY ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 1, 2020, Gregg Near and Samuel M. Forsyth presiding. Petitioner appeared pro se. Respondent was represented by Jason Soronson, Esq. Petitioner is protesting the 2019 actual value of the subject property.

The Board accepted Petitioner’s Exhibit 1 and Respondent’s Exhibit A. Mr. Gregory Ketcham was accepted as an expert witness.

Subject property is described as follows:

**5535 W Indore Drive
Littleton, CO 80128
Jefferson County Account Number 300100499**

The improved subject property is a split-level style residence of good quality construction built in 1972. The home contains 1,757 square feet of living area and a 621 square foot basement with approximately 310 square foot of finish. There is an attached garage of 477 square feet. The home is designed with three bedrooms and two and one half bathrooms. Exterior finish and landscaping is typical for the neighborhood.

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:	\$373,756
Respondent’s Recommended Value:	\$371,800

Petitioner's Requested Value: \$330,000
Board's Concluded Value: \$371,800

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. (2019). 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.

EVIDENCE PRESENTED BEFORE THE BOARD

Petitioner, Mr. Lee B. Woodbury, testified his home was in below average condition and was functionally and aesthetically obsolete. In support of his contention, Petitioner presented a summary

of needed updates to his property. Repairs were estimated to cost \$111,170. Six written estimates indicated a total cost of \$74,870. The remaining costs were provided verbally. Petitioner also stated a foundation issue with an unknown cost to repair. Mr. Woodbury presented the four comparable sales submitted by Respondent for a hearing before the CBOE. Petitioner made no adjustment to the sales but asserted they were all superior to his property. Petitioner disputed Sale No. 3 (7379 S Ingalls Court) and submitted a July 2013 transaction of this property with information obtained from the MLS (Multiple Listing Service).

Respondent's witness Mr. Greg Ketcham, a licensed appraiser employed by the Jefferson County Assessor's office, presented an appraisal report concluding to a final value opinion of \$371,800. Mr. Ketcham provided three comparable sales ranging in sale price from \$300,000 to \$380,000 and in size from 1,809 to 1,929 square feet of above grade living area. The comparable sales were adjusted for time (market conditions) and for sale conditions to produce adjusted sale prices ranging from \$399,164 to \$406,616.

The comparable sales were then considered and adjusted for significant property features affecting the sale prices as of the valuation date of June 30, 2018. The sales were adjusted for size, central air conditioning, basement finish and garage size. After the above adjustments the comparable sales ranged from \$365,616 to \$384,105. The witness gave equal consideration to all the sales and concluded to an average market value opinion of \$371,800. Mr. Ketcham reported the home to be in average condition.

THE BOARD'S FINDINGS AND CONCLUSIONS

The Board first turns to the testimony and exhibits presented by Petitioner. To begin, Petitioner relied upon information provided at the CBOE hearing, asserting all four of the comparable sales were in superior condition to his home. In review of the sales, the Board finds Petitioner to be in error. Both sale No. 2 and sale No. 3 were adjusted downward \$42,500 to reflect remodeling and improvements. In regard to Petitioner's submittal of additional information for Sale No. 3, the Board places no reliance on the 2013 sale. The Board also finds it unreasonable that expending \$111,170 in repairs and updates would result in a classification of the property as "average".

After careful consideration of the exhibits and testimony, the Board finds Petitioner has failed to meet the required burden of proof. Respondent's witness provided an appraisal report detailing the factors and conclusions leading to a supportable opinion of value. The Board finds Petitioner provided insufficient probative evidence to prove that the subject property was incorrectly valued for tax year 2019.

ORDER

The Petition is **GRANTED**. Respondent is ordered to reduce the 2019 actual value of the subject property to \$371,800 (Respondent's requested value). The Jefferson County Assessor is directed to change their records accordingly.

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.

DATED and MAILED this 19th day of January, 2021.

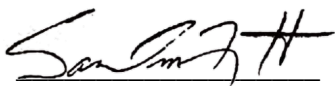


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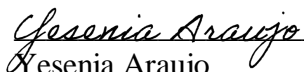
Gregg Near

Concurring Board Member:



Samuel M. Forsyth
*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.



Yesenia Araujo