

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 78956
Petitioner: DWAYNE BLAKEMORE II, v. Respondent: JEFFERSON COUNTY BOARD OF EQUALIZATION.	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on January 5, 2021, Samuel Forsyth and Valerie Bartell presiding. Petitioner Dwayne Blakemore II appeared pro se. Respondent was represented by Rachel Bender, Assistant County Attorney for Jefferson County. Petitioner protests the actual value of the subject property for tax year 2019.

EXHIBITS

The Board admitted into evidence Respondent’s Exhibit A. Petitioner’s Exhibit, attached to the petition was admitted into evidence; however, Petitioner’s rebuttal to Exhibit A was not admitted into evidence as it was received after the deadline for submission of exhibits.

DESCRIPTION OF THE SUBJECT PROPERTY

Address: 7055 South Garrison Street, Littleton, CO 80128
County Schedule No.: 300430650

The subject property is a single-family residential property. The subject property’s actual value, as assigned by the County Board of Equalization (“CBOE”) below, as requested by Petitioner, and as concluded by the Board, are:

CBOE’s Assigned Value:	\$ 633,799
Petitioner’s Requested Value:	\$ 555,000
Board’s Concluded Value:	\$ 615,439

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 or classification 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, in this appeal, 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. (2020).

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.

To identify comparable sales, county assessors are required to collect and analyze sales that occurred within the 18-month period prior to July 1 immediately preceding the assessment date. § 39-1-104(10.2)(d), C.R.S. (2019). For tax year 2019, this 18-month period ends on June 30 of 2018. *See id.* If sufficient comparable sales are not available during this 18-month period to adequately appraise the property, then the assessor may use sales that occurred in preceding 6-month increments for a total maximum period of 5 years. *Id.*

FINDINGS AND CONCLUSIONS

The subject property is a single-family residential property located in Jefferson County, Colorado. Petitioner provided testimony, stating the classification of the property as adjacent to open space is incorrect. Petitioner stated that he learned that properties backing to open space are adjusted upward by 18 percent, after speaking with the Jefferson County Assessor's Office. Petitioner testified and presented photographs showing the property backs to Deer Creek Middle School. Petitioner testified that proximity to a middle school is inferior to proximity to open space, as there is light and noise pollution from the school, as well as trash discarded by students, which blows into the subject yard. Petitioner provided three comparable sales within the same residential subdivision as the subject. The three comparable sales selected by Petitioner do not back to the middle school.

Respondent presented the testimony of Greg Ketcham, appraiser with the Jefferson County Assessor's Office. Mr. Ketcham testified to his appraisal of the subject property, admitted into evidence as Respondent's Exhibit A. His analysis included all three of Petitioner's comparable sales, and one additional comparable sale, within the same subdivision, backing to open space.

Mr. Ketcham testified that his appraisal report considers the subject's location, that is, instead of an 18 percent adjustment for superior location backing to open space, that no adjustment for backing to open space was performed. A compounding factor to the discrepancy of values was that the subject's lot size was larger than the comparables selected, and it was not possible to bracket for lot size. Mr. Ketcham verbally corrected his comparable sales grid's adjustments for lot size and open space/land contributor factors, and testified that this changed his final reconciliation of value from \$641,300 to \$638,800.

As a result of Mr. Ketcham's testimony amending these items, Petitioner and Respondent are in agreement the subject does not warrant a classification of superior location, backing to open space. Petitioner and Respondent are also in agreement on the adequacy of comparable sales utilized, with both parties choosing three of the same comparables to the subject. Therefore, the only conclusion for the Board to make is if the weight of adjustments applied to the comparables are appropriate given the testimony of Petitioner and Mr. Ketcham. Specifically, the only adjustment in dispute between Petitioner and Respondent was the adjustment for proximity to open space.

Petitioner requests that an 18 percent adjustment be considered for proximity to open space. Respondent's Exhibit A performed a \$5,000 adjustment for proximity to open space. The results, based on each scenario are presented below:

Comp. No.	Address	Adjusted Value Prior to Location Adjustment (Assessor)	Respondent's (Exhibit A) Adjustment	Respondent's Value	Petitioner's Adjustment	Petitioner's Value
1	9317 W Plymouth Ave	\$582,000	(\$5,000)	\$577,000	(\$104,760)	\$477,240
2	9256 W Quarles Pl	\$692,914	\$0	\$692,714	\$0	\$692,714
3	7003 S Garrison St	\$631,060	\$0	\$631,060	\$0	\$631,060
4	6974 S Garrison St	\$668,311	(\$5,000)	\$663,311	(\$120,296)	\$543,015

Respondent's Average Concluded Value:	\$641,021
Petitioner's Average Concluded Value	\$586,007

After a review of the adjustments, while it is possible that the land adjustment value of \$5,000 is insufficient to capture the locational features of the subject, an 18 percent adjustment also appears to be implausible, given that this adjustment to comparable 1 would bring the comparable far out of line with any sales in the subject's neighborhood during the base period. If Petitioner and Respondent were to meet halfway, by applying a nine percent adjustment to the comparable sales backing to open space, the concluded value may appear as follows:

Comparable No.	Address	Adjusted Value Prior to Location Adjustment (Assessor)	9% Adjustment	Concluded Value
1	9317 W Plymouth Ave	\$582,000	(\$52,380.00)	\$529,620.00
2	9256 W Quarles Pl	\$692,914	\$0	\$692,914.00
3	7003 S Garrison St	\$631,060	\$0	\$631,060.00
4	6974 S Garrison St	\$668,311	(\$60,147.99)	\$608,163.01

Concluded Value with a 9% Adjustment	\$615,439
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The Board concludes that Petitioner provided persuasive evidence that the adjustment for location provided in Mr. Ketcham's appraisal was insufficient. Petitioner performed due diligence with the Jefferson County Assessor's Office to ascertain an appropriate adjustment, that was not disputed during the testimony. However, upon a review of the data, an 18 percent across the board adjustment for location appears to lead to concluded market values that fall out of the bracketed unadjusted market values and may be misleading. Therefore, the Board concludes a value near the middle of Petitioner's and Respondent's respective locational adjustments.

ORDER

The petition is **GRANTED**. The Jefferson County Assessor's Office is ordered to update the value for the subject property for the 2019 Tax Year to \$615,439.

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 29th day of April, 2021.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Valerie C. Bartell

Concurring Board Member:



Samuel 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 order of the Board of Assessment Appeals.



Yesenia Araujo

Yesenia Araujo