

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 79087</b>
Petitioner:  <b>Karyn Weakliem</b>  v.  Respondent:  <b>Denver County Board of Equalization</b>	
<b>FINAL AGENCY ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on September 14, 2020, Debra Baumbach and John DeRungs presiding. Petitioner Karyn Weakliem appeared pro se. Respondent was represented by Paige Arrants, Esq. Petitioner protests the actual value of the subject property for tax year 2019.

**EXHIBITS**

The Board admitted into evidence Petitioner’s Exhibit 1 and Respondent’s A.

**DESCRIPTION OF THE SUBJECT PROPERTY**

2873 No. Elmira Street, Denver, Colorado  
 County Schedule No.: 01274-15-003-000

The subject property is improved with a single-family detached residence in the Stapleton neighborhood built in 2005. It has a two-story design consisting of 2,657 square feet with four bedrooms and three baths and a 1,349 square foot finished basement in the original (un-upgraded) condition.

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:	\$723,200
Petitioner's Requested Value:	\$660,000
Respondent's Requested Value:	\$723,200

### **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

Petitioner challenged the comparability of the sales data collected by the Respondent's expert Adriana Gonzalez (employed as an appraiser by the Denver County Assessor's office). Ms. Weakliem's evidence from MLS listings of those sales showed that many of these homes had been upgraded before their sale. Ms. Weakliem testified that this was in contrast to the subject's original condition on January 1, 2019. She testified that the subject retained builder-grade finishes, original bathrooms, original kitchen cabinets, original cabinets, original appliances, original countertops, original carpeting. She also reported water damage to the floor in the kitchen which she estimated would cost about \$10,000 to repair. Accordingly, Petitioner requested a value at \$660,000 in large part based on the \$645,000 unadjusted sale price of her Comparable No. 3 (2832 Fulton St.) , which was largely in its original condition at the time of sale.

Respondent's expert, Adriana Gonzalez, testified in relevant part that realtor reports of upgrades in her comparable sales did not warrant any downward adjustments, after her review of photos of the subject and the comparables showed little difference in their features. She also attributed the low sales price for Petitioner's Comparable No. 3 (Ms. Gonzalez's No. 4 - 2832 Fulton St.) to a prolonged marketing period of 3 months, but included it because of its close proximity to the subject. Ms. Gonzalez's \$44,800 upward adjustment to the sales price of Comparable 4 of for improved market conditions is well supported by evidence from neighborhood sales that would put the indication of value for this comparable, after this time adjustment only, at about \$690,000. We also found Ms. Gonzalez's testimony and appraisal persuasive in regards to additional upward adjustments being warranted to the sales price of Comparable 4. First, we find that her \$10,000 upward adjustment is warranted due to Comparable 4's lack of the subject's park view. Second, we find the \$8,600 upward adjustment warranted due to the subject's larger finished basement. These adjustments put the indication of value for the subject to almost \$709,000. The Board finds Ms. Gonzalez's appraisal credibly supported the Assessor's value, and refuted Petitioner's challenges to the comparability of the sales Respondent selected to value the subject. The Board therefore finds that Petitioner has not met her 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.

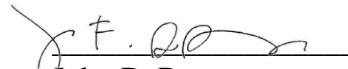
See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); see also § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

**DATED and MAILED** this 28th day of December 2020.


**BOARD OF ASSESSMENT APPEALS:**

Drafting Board Member:

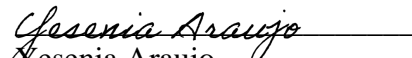


  
John DeRungs

Concurring Board Member:

  
Debra 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 order of the Board of Assessment Appeals.

  
Yesenia Araujo