

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 78964
Petitioners: Ronald and Myra Beth Odegard v. Respondent: Adams County Board of Equalization	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on August 25, 2020, Debra Baumbach and John DeRungs presiding. Petitioner Ronald Odegard appeared pro se. Respondent was represented by Meredith Van Horn, Esq. Petitioner protests the actual value of the subject property for tax year 2019.

EXHIBITS

The Board admitted into evidence Respondent’s Exhibit A.

DESCRIPTION OF THE SUBJECT PROPERTY

15305 Heritage Circle, Thornton, Colorado
County Schedule No.: R0171725

The subject property is improved with a single-family attached residence (duplex) in the Heritage Todd Creek subdivision built in 2012. It has a two level ranch style design consisting of a main level of 1,629 square feet with two bedrooms and two bathrooms and a 1,226 square foot unfinished basement.

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:	\$420,000
Petitioners' Requested Value:	\$405,000
Respondent's Requested Value:	\$420,000

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 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. (2019), 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.

Colorado law requires county assessors to analyze sales data to determine if any differences exist between market conditions at the time of a comparable sale, and the valuation date for the subject property being appraised. § 39-1-104(10.2)(a), C.R.S. Depending on market conditions, the assessor may adjust comparable sales prices, resulting in an estimate of what the comparable would have sold for on the date of value. This process is often referred to as “time trending” and the resulting sales price referred to as the “time-adjusted sales price.” The Assessor’s Reference Library (“ARL”) (which is binding guidance for assessors) further discusses this process. *See A.R.L. Vol. 3, pgs. 2.21-2.22.*

FINDINGS AND CONCLUSIONS

Petitioner requested a value at \$405,000 because he believed a \$25,000 upward (premium) adjustment had been misapplied by the CBOE to reach the CBOE’s assigned value of \$430,000 using incorrect information that his home was on the golf course. He also argued that the value of the subject property had increased by a significant and incorrect amount since the previous valuation period. To substantiate his claim, he also referred to an appraisal of the subject property for mortgage financing prepared at the time of its purchase in October 2017 that concluded it was worth \$402,000. The date of the appraisal and sale was eight months prior to the June 30, 2018 valuation date for tax year 2019. Finally, Petitioner observed that Respondent’s comparables, found in their appraisal, showed sales prices that were lower than his requested value.

Respondent presented expert testimony by Katie Cordova, employed by the Adams County Assessor’s Office, who testified in relevant part that she gave most weight to the aforementioned sale price for the subject property after adjustment for market condition (“time trending”) showed an indication of value at \$425,584. (This was Respondent’s Comparable Sale 1). Similarly, Ms. Cordova testified her other three comparables’ sales prices were much higher after a market condition adjustment (alone) was applied. The Board finds this testimony credible because evidence from neighborhood sales suggests that the subject property would bring a substantially higher price eight months after its sale. Additionally, Ms. Cordova’s appraisal included a time-trending analysis based on data derived from 585 sales in the data-gathering period. Ms. Cordova testified, and the Board agrees, that statute and the ARL require the analysis of market conditions to assess whether such an adjustment is warranted. The Board finds that Ms. Cordova correctly applied the market condition adjustment to her comparables. The Board also finds that none of Ms. Cordova’s comparable sales were located on a golf course.

The Board finds that the unadjusted sales price of the subject property in October 2017 does not constitute persuasive evidence of the value of the subject property for tax year 2019. The Board also finds that the assessor’s value was supported by comparable sales which were not located on a golf course (including the adjusted sale of the subject itself), which refutes Petitioners’ assertion that a “golf course” premium was applied. Likewise, Petitioners’ assertion that the 2019 value of the subject property must have been incorrect because of the increase it represented over the previous year’s value was rebutted by Respondent’s appraisal, which supported the assessor’s value. The Board therefore finds 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).

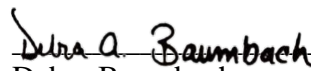
DATED and MAILED this 28th day of December, 2020.

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 _____
Yesenia Araujo