

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 71941**

Petitioner:

**GEORGE & GEORGIA SAURWEIN,**

v.

Respondent:

**BOULDER COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on August 3, 2018, Gregg Near and Debra A. Baumbach presiding. Mr. George Saurwein appeared *pro se* on behalf of Petitioners. Respondent was represented by Ms. Jasmine Rodenburg, Esq. Petitioners are protesting the 2017 actual value of the subject property.

Petitioners' Exhibit 1, Pages 4, 6-11, 13-17 were admitted noting Respondent's objections. Respondent's Exhibit A was admitted and Ms. Jennifer Mendez was admitted as an expert witness.

Subject property is described as follows:

**861 Windflower Dr, Longmont, CO  
Boulder County Schedule No: R0148555**

The subject property is a 1,911 square-foot ranch design patio home with a 1,079 square foot unfinished basement. The home was built in 2001. The residence contains two bedrooms and two bathrooms and has an attached two-car garage. The property is situated on a 5,434 square foot corner lot backing up to Foxhill Golf Course in the Fox Meadows Subdivision.

Petitioners are requesting an actual value of \$452,000 for the subject property for tax year 2017. Respondent assigned a value of \$500,000 for tax year 2017.

Petitioners contend that Respondent failed to adequately consider the negative impact on value because the subject property is located on the corner of 9<sup>th</sup> Ave. which is a high-traffic street.

Mr. Sauerwein claims that despite the home's location backing to the golf course, the value is diminished because of the traffic noise from the busy street.

To support the requested value, the witness relied on the six sales presented at the CBOE hearing. Mr. Sauerwein presented several analyses to support alternative adjustments for location and lot size based on information that he obtained through correspondence with the assessor's office following the CBOE hearing. Mr. Sauerwein concluded to a value of \$452,000.

Respondent's witness Ms. Jennifer Mendez, a Certified Residential Appraiser with the Boulder County Assessor's Office, presented a sales comparison approach including three comparable sales ranging in sale prices from \$385,000 to \$540,000 and in size from 1,911 to 2,057 square feet. After adjustments for differences in property characteristics, the sales ranged from \$498,500 to \$546,228. Ms. Mendez gave weight to all three sales in the analysis with greater emphasis on Sale 3.

Ms. Mendez testified that she completed an inspection of the subject property and selected three comparable sales which were all ranch style homes located in the same subdivision as the subject. Ms. Mendez testified that she could not find any sales located on 9<sup>th</sup> Ave. to bracket the subject's location. As support for the location adjustment, she relied on a paired sales analysis in addition to the traffic count breakdown. Ms. Mendez stated that there is a high demand in the market for housing and that external influences such as traffic noise are not significant to potential buyers.

Respondent requested the Board to uphold the assigned value of \$500,000 for the subject property for tax year 2017.

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. See *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 202, 208 (Colo.2005). After careful consideration of all of the evidence, including testimony presented at the hearing the Board finds that Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for 2017 tax year.

The Board finds Respondent's evidence and testimony to be the most credible. Respondent's witness completed a site-specific market analysis comparing sales occurring in the statutory time-period of similar properties and adjusting the sales for differences in property characteristics.

While the Board finds Petitioners' use of the sales presented at the CBOE hearing credible, the Board finds Petitioners' market analysis based on those sales less credible. Petitioners' use of averaging the data to conclude to a value is unacceptable appraisal practice. Petitioners relied only on the information presented at the CBOE hearing and conversations with the assessor's office. Petitioners failed to present refutable evidence in the hearing before this Board that the site-specific analysis presented by Respondent is incorrect or that the adjustments for location were insufficient.

In addition, Petitioners included testimony and evidence which was outside of statutory base period. Section 39-1-104, C.R.S. requires that a base year system be established to assign values to

property. Under that method, the value of property is based upon a specified base period which value is then used in calculating the property's assessed value each year until a new base period is established. *Carrara Place v. Arapahoe County Board of Equalization*, 761, P.2d 197 (Colo.1988). Thus, the base period for the 2017 assessment is the 18-month period from January 1, 2015 through June 30-2016, except that if comparable valuation data is not available from such one-and-one-half year period to adequately determine the value of a class of property, the period of five years immediately prior to July 1, 2016, shall be utilized to determine the level of value for assessments for 2017. See Assessors Reference Library, Volume 3, p. 2.2. The Board cannot consider any evidence outside the base period.

On or about August 8, 2018, the Board received two letters from Petitioner, Mr. George Saurwein, addressed to each Board Member that presided over Petitioners' hearing on August 3, 2018. Mr. Saurwein protested the Board's decision with regard to the admittance of the parties' exhibits and also expressed his disagreement with Respondent's adjustments to comparable sales.

The Board reviewed the claims within Petitioners' filing pursuant to the Board's Rule 26, which states that "[t]he Board may suspend any of its rules upon motion of a party or intervenor or by the Board upon its own motion when the interests of justice or fairness so require." Upon careful review and consideration of Petitioners' August 8, 2018 filing, Respondent's response and the file, the Board finds that the interests of justice and fairness do not require that the Board's ruling with respect to the parties' exhibits be amended. Further, the Board finds that Petitioners had an opportunity to present any evidence concerning Respondent's adjustments at the August 3, 2018 hearing. Presentation of any evidence and/or arguments outside the Rule 11 submission deadline and after the hearing on the merits is not appropriate.

### **ORDER:**

The Petition is denied.

### **APPEAL:**

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).

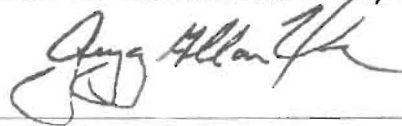
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 18th day of September, 2018.

**BOARD OF ASSESSMENT APPEALS**



Gregg Near



Debra A. Baumbach

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk