

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 75492

Petitioner:

EDWARD A. AHLSTRAND,

v.

Respondent:

EAGLE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 30th, 2019, Diane M. DeVries and Samuel M. Forsyth presiding. Edward A. Ahlstrand appeared on behalf of Petitioner. Respondent was represented by Katherine M. Parker, Esq. Petitioner is protesting the 2019 actual value of the subject property.

EXHIBITS AND WITNESSES

The Board admitted Petitioner’s Exhibit 1, Respondent’s Exhibits A-E, and expert testimony by Melodey Woolsey, Certified Residential Appraiser.

DESCRIPTION OF THE SUBJECT LOT

**783 and 835 Webb Peak, Edwards, CO
Eagle County Schedule No.: R065002**

The subject is a single family detached residential property built in 2001, consisting of 5,354 finished square feet above grade and 2,357 square feet finished basement with a total finished area of 7,711 square feet. There are 4 bedrooms, 4.5 baths, and 4 fireplaces. The subject has a 2+ size garage. The home sits on 2 distinct building sites totaling 10.584 acres. The subject property lies in the development of Cordillera, a gated golf community.

The subject property’s actual values—as assigned by the County Board of Equalization (CBOE) below, as requested by each party, and as determined by this Board—are:

CBOE's Assigned Value:	\$3,299,200
Respondent's Requested Value:	\$2,299,220
Petitioner's Requested Value:	\$1,700,000
Board's Determined Value:	\$2,229,220

BACKGROUND

Petitioner identified 12 comparable properties that sold within the applicable statutory period. *See* Ex. 1 (referring to “every sale in the Summit during the measurement period”). For each of the 12 schedule numbers listed on Exhibit 1, the Board finds that the figures shown on Exhibit 1 are not derived by Petitioner from sale prices. Instead, these figures are the portions of actual value that the Assessor has allocated to improvements.

Next, Petitioner then divided each allocated improvement value by a single variable: the comparable property’s finished square footage. These calculations resulted in values ranging from \$250 to \$375 per square foot, with a median value of \$290 per square foot.¹ Petitioner contends that this median represents the median value per square foot of the improvements for the 12 comparable properties. Next, Petitioner multiplied the median value of \$290 per square foot times only the first-floor finished area of the subject property, which is 5,354 square feet.² Petitioner contends that the result, \$1,552,660, represents the value of the improvement of the subject property.³

Petitioner then estimated the value of each of the two building sites at \$75,000 each, resulting in an estimated value of \$150,000 for the land component of the subject property.⁴ Petitioner then added that estimated land value to the estimated improvement value, resulting in the Petitioner’s concluded value of \$1,702,660.⁵

¹ Median value per finished square foot, excluding land value, of Petitioner’s proposed 12 comparables	² Finished square footage (above grade only) of the subject property	³ Estimated value of the improvement of the subject property (\$290 * 5,354 sq. ft.)	⁴ Estimated value of land of the subject property (\$75,000 for each of two building sites)	⁵ Petitioner’s conclusion of value
\$290	5,354 square feet	\$1,552,660	\$150,000	\$1,702,660

BURDEN OF PROOF

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 (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 the BAA, 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).

APPLICABLE LAW

In an appeal to the Board of Assessment Appeals, “a party may seek review of only the total valuation for assessment, and not of the component parts of that total.” *Cherne v. Boulder Cty. Bd. of Comm'rs*, 885 P.2d 258, 259 (Colo. 1994). Thus, a party may not properly seek review only as to the improvements component of a total assessment. *See id.*

In valuing residential properties, Colorado’s statutes and constitution require that the valuation of residential property be determined solely by the market approach to appraisal. Colo. Const. art. X, § 20(8)(c); § 39-1-103(8)(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.

While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under Colorado’s statutes or constitution. *Crocog Co. v. Arapahoe Cty. Bd. of Equalization*, 813 P.2d 768, 770 (Colo. App. 1990). As the Colorado Supreme Court stated in *Arapahoe Cty. Bd. of Equalization v. Podoll*, 935 P.2d 14, 18 n.12 (Colo. 1997):

While the valuation of property similarly situated is credible evidence at trial pursuant to § 39-8-108(5)(b), C.R.S. (1994), a disparity in percentage increases in the assessments of neighboring properties does not, by itself, warrant assessment reduction.

THE BOARD’S FINDINGS AND CONCLUSIONS

I. Extraction of Land Value From Total Sale Prices

In support of Petitioner’s requested value of the improvement on the subject property (\$1,552,660), Petitioner relies on the allocated improvement portions of actual values as determined by the Assessor. To the extent that Petitioner seeks review only as to a component of the total valuation for assessment (the improvement component only), Petitioner’s appeal is prohibited by *Cherne*, 885 P.2d at 259.

II. Adjustments

The Board finds that Petitioner's methodology—dividing the allocated actual value of improvements of each comparable property by that property's above-grade square footage—lacks credibility. Petitioner did not distinguish the above-grade from the below-grade square footage for any of the comparable properties he presented. Nor did Petitioner account for other potentially determinative variables. The use of one variable alone to determine value is not reflective of the nature of the marketplace or the actions of participants in the market. Petitioner's analysis ignores the variety of variables that are proven to have a quantifiable impact on value. As a result, the Board finds that Petitioner failed to present sufficient probative evidence to prove that the subject property was incorrectly valued.

Respondent provided an appraisal that conformed to the Uniform Standards of Appraisal Practice and presented by Melodey Woolsey, Certified Residential Appraiser, employed by the Eagle County Assessor's office. The appraiser identified 4 residential properties that sold within the development. Respondent considered as many as 17 attributes that may contribute to value. Respondent made adjustments to 5 attributes—site, actual age, bath count, square footage, and garage size. Respondent presented a rebuttal exhibit with time trend data used in the 2018 reappraisal by Eagle County. Respondent did not apply a time trend for properties in this area of the county.

The Board concludes that the Respondent's appraisal is substantive and appropriately reflects the impact of a variety of variables which have quantifiable impact on market value. The Respondent's appraisal methodology is sound and credible. After correction of the land adjustments, the Board finds the adjustments and testimony of the Respondent to be clear, consistent, compelling and well documented.

Based on evidence presented and recommended by Respondent in support of \$2,299,200, the Board finds that the subject property was incorrectly valued.

ORDER

Petition is GRANTED. Respondent is ordered to reduce the 2019 actual value of the subject property to \$2,299,220. The Eagle County Assessor is directed to change its 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. (2019).

DATED and MAILED this 10th day of April, 2020.

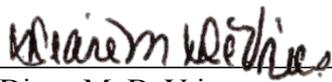
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Samuel M. Forsyth

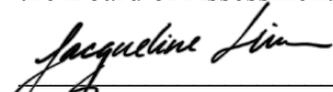
Concurring Board Member:



Diane M. DeVries,
*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.



Jacqueline Lim