

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 75720</b>
Petitioner:  <b>GRETCHEN VM ISZARD,</b>  v.  Respondent:  <b>SUMMIT COUNTY BOARD OF EQUALIZATION.</b>	
<b>ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on January 29<sup>th</sup>, 2020, Diane M. DeVries and Gregg Near presiding. Petitioner was represented both by herself and by Ethan H. Parker. Respondent was represented by Cameron E. Turpin, Esq. Petitioner protests the actual value of the subject property for tax year 2019.

**EXHIBITS AND WITNESSES**

The Board admitted Petitioner’s Exhibits 1 & 2, Respondent’s Exhibits A & B, and expert testimony by Respondent’s witness Michael W. Peterson, Certified General Appraiser employed by the Summit County Assessor.

**DESCRIPTION OF THE SUBJECT PROPERTY**

105 Louise Placer Road, Breckenridge, Colorado  
Summit County Schedule No.: 100698

The subject property is a single family home built in 1979. The subject property is located in the Crown subdivision in the Town of Blue River, approximately 2.3 miles from the town of Breckenridge. It is classified as residential property, and it is in fair condition. The subject property’s actual values, as assigned by the County Board of Equalization (“CBOE”) below and as requested by Respondent, are:

CBOE's Assigned Value:	\$617,392
Respondent's Requested Value:	\$565,198
Petitioner's Requested Value:	\$436,969
Board's Determined Value:	\$565,198

### **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 board of equalization proceeding may be presented to the Board for a new and separate determination. *Id.*

### **APPLICABLE LAW**

In valuing residential real properties for tax purposes, value must be determined solely by the market approach to appraisal. 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.

### **THE BOARD'S FINDINGS AND CONCLUSIONS**

Petitioner maintains the Summit County Assessor erred by incorrectly describing and adjusting for the subject property's inferior siding. In addition, Ms. Iszard asserts the appraisal

submitted by the county fails to address important value factors such as proximity to rental properties; the influence of adverse locational conditions; appropriate comparable sales and reliance upon subjective mass appraisal procedures in support of adjustments. Based on the above Petitioner states Respondent's value opinion is not supportable.

After review and careful consideration of the testimony and exhibits provided by both parties the Board finds Petitioner has provided insufficient probative evidence to persuade the Board of the viability of the complaint. In regard to the specific points of contention the Board finds the following:

The Board disagrees with Petitioner's claim that the Respondent's appraisal did not adequately adjust for the subject's inferior siding. Petitioner provided a cost to cure estimate (Ex. 1, p. 18) of \$50,000 to repair the siding as well as update and repair numerous other components. Respondent's appraiser applied condition adjustments from \$47,389.80 to \$54,460.80 to Comparable Sales No. 2, 3, 4 and 5, essentially equal to Petitioner's claims. The Board does, however, find Respondent's off-setting adjustments for condition and modular construction to be questionable.

Petitioner provided no evidence to support the claim of value impairment caused by nearby rental properties. The Board notes that Sale No. 1 (Ex. A, p. 12) is very proximate to the subject and likely exposed to a similar situation.

Petitioner's adjustment grid is inconsistent, specifically:

- Bathroom count: the subject property has two baths. Sales No. 2, 4 and 5 contain three baths but the adjustments applied were (\$10,994.76), (\$9,526.28) and (\$12,706.56) respectively without explanation for the differences.
- Condition: Sales No. 1 and 2 were rated "D" and adjusted (\$47,301) and (\$54,973.80). Sales No. 3, 4, and 5 were also rated "D" yet received no adjustment.
- Grade: Sales No. 1 and 2 were graded "D" and received no adjustment. Sales No. 3, 4 and 5 were also graded "D" but adjusted from (\$47,631.40) to (\$64,999.10).
- Petitioner ignored Respondent's Sales No. 2, 3, 4, and 5. All these sales were located in the subject subdivision and reasonably similar to the subject in size. Petitioner presented only one sale from the subdivision and that sale exceeded the size of all the sales used by respondent.

Petitioner, based upon the exhibits and testimony, requests a value of \$436,969.

The Board was not swayed by Petitioner's comparable sales and evidence presented. Additionally, the Board does not agree that Respondent incorrectly applied mass appraisal adjustments and violated USPAP in the analysis provided.

Respondent is recommending a value of \$565,198 representing a reduction from the value applied by the Summit County Board of Equalization.

### **ORDER**

Petition is GRANTED. Respondent is ordered to reduce the 2019 actual value of the subject property to \$565,198. The Summit County Assessor is directed to change their 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 13<sup>th</sup> day of April, 2020.

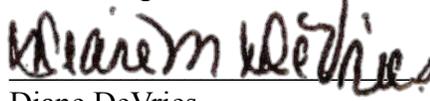
**BOARD OF ASSESSMENT APPEALS:**



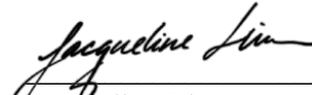
Drafting Board Member:

  
\_\_\_\_\_  
Gregg Near

Concurring Board Member:

  
\_\_\_\_\_  
Diane 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