

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>LANCE WOOD,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>GRAND COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 75789</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 22<sup>nd</sup>, 2020, Gregg Near and Diane M. DeVries presiding. Petitioner appeared in pro se. Respondent was represented by Christopher Leahy, Esq. Petitioner is protesting the 2019 actual value of the subject property.

**EXHIBITS AND WITNESSES**

The Board admitted Respondent’s Exhibit A into evidence. The Board designated as an expert Respondent’s witness William W. Wharton, Chief Appraiser for the Grand County Assessor’s Office, as to the appraisal report that he prepared in valuing the subject property for tax year 2019.

**DESCRIPTION OF THE SUBJECT PROPERTY**

**1055 Winter Park Drive, Winter Park, CO  
Grand County Schedule No.: R303122**

The subject property includes a one-story modular home and the parcel of residential land on which it sits. The subject property’s actual value as assigned by the Grand County Assessor (“the Assessor”) and as requested by Petitioner are:

Assessor’s Assigned Value:	\$413,440
Petitioner’s Requested Value:	\$340,000

**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 Commission*, 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 BOARD'S FINDINGS AND CONCLUSIONS**

Petitioner maintains that the Assessor and the County Board of Equalization are in error regarding the valuation of the subject property.

### **I. Equalization**

The Petitioner maintains the Grand County Assessor and the County Board of Equalization are in error regarding the valuation of the subject property. In support of this position Mr. Wood presented the Assessor's valuation of two residences located within the subject subdivision. Neither of the two properties sold within the base period. 19 Lindon Road transferred as a vacant residential lot in July 2018 and Respondent's witness testified the home was only 60% complete as of the valuation date. Petitioner's second sale, 11 Balsam Drive, was similar to the subject in age and design but had not transferred since a sale in May 2001. No adjustments were applied to the sales and Mr. Wood solely relied upon the Assessor's valuations in presenting an equalization argument.

To the extent Petitioner contends that the assessments of these properties and the subject property are not just and equalized as required under Article X, section 3 of the Colorado Constitution: this equalization evidence, by itself, does not satisfy the requirement to provide comparable sales with appropriate adjustment. 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 finds that Petitioner's equalization evidence fails to prove that the assessed valuation of the subject property is in error.

## **II. Comparable Sales**

Petitioner also disputed the appraisal report prepared by Mr. Wharton because the report did not contain sales from within his subdivision.

The Board finds that the two properties presented by Petitioner (19 Linden Road and 11 Balsam Drive) are not appropriate as comparable sales, as neither of them sold within the applicable base period (July 2013 to June 2018) as required under section 39-1-104(10.2)(d), C.R.S. 2019. The first property—19 Linden Road—transferred in July 2018. The other property—11 Balsam Drive—transferred in May 2001.

Furthermore, even if these sales had occurred within the applicable base period, the Board also finds that additional adjustments would be necessary. Unlike the subject property, which has a fully developed residence, the Linden Road property was a vacant residential lot at the time of the sale in July 2018, and was only 60% complete as of the valuation date of January 1, 2019. Considering that Petitioner did not apply any adjustments, the Board finds that these sales would not disprove the assessed valuation even if they had occurred within the applicable base period.

## **III. Other Issues**

Petitioner disputes the assessed valuation with respect to various other characteristics of the subject property to which he testified, including the home's older modular style, the largely original interior, the structure's settlement problems, and the fact that the building's eaves encroach upon an adjacent vacant lot. The Board finds that Petitioner's testimony is not credible and does not meet the burden of proof.

Petitioner also disputes the assessed valuation because Respondent's appraisal report did not contain any sales from within his subdivision. The Board finds that Respondent's appraisal report is compliant with current standards. The report presented six comparable sales that were appropriately adjusted detailing significant property differences. Mr. Wharton did not inspect the interior of the subject property and was not aware of any encroachment problem. The Board finds Respondent's appraisal report persuasive.

Petitioner may have had some relief if Petitioner provided sufficient proof of the deficiencies within the interior of the property—easily accomplished by an offer of an interior inspection as well as a presentation of evidence regarding the property encroachment.

## **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.

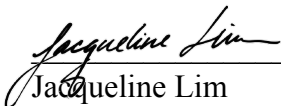
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S. 2019.

**DATED and MAILED** this 25<sup>th</sup> day of March, 2020.

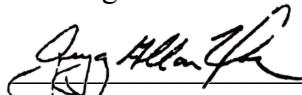


I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

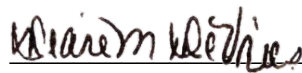
  
Jacqueline Lim

**BOARD OF ASSESSMENT APPEALS:**

Drafting Board Member:

  
Gregg Near

Concurring Board Member:

  
Diane M. DeVries,  
*Concurring without modification pursuant to § 39-2-127(2), C.R.S.*