

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LANCE WOOD,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 75790</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 22nd, 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 five subject lots.

EXHIBITS AND WITNESSES

The Board admitted Respondent’s Exhibits A, B, and C 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 reports that he prepared in valuing the subject lots for tax year 2019.

DESCRIPTION OF THE SUBJECT PROPERTIES

The subject properties are five vacant lots. Their actual values as assigned by the Grand County Assessor (“the Assessor”) and as requested by Petitioner are:

Schedule No.	Subject Property Address	Assessor’s Assigned Value	Petitioner’s Requested Value
R037050	117 Cedar Drive, Winter Park, CO	\$100,070	\$83,160

R037440	125 Cedar Drive, Winter Park, CO	\$100,070	\$83,160
R037450	139 Cedar Drive, Winter Park, CO	\$100,070	\$83,160
R037430	1383 Winter Park Drive, Winter Park, CO	\$29,650	\$24,640
R303124	40 Balsam Drive, Winter Park, CO	\$164,720	\$136,875

BURDEN OF PROOF

In a proceeding before the Board, the taxpayer has the burden of proof to establish, by a preponderance of 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

I. Equalization Evidence

The Petitioner maintains the Grand County Assessor and the County Board of Equalization are in error regarding the valuation of five vacant lots that make up the subject property. In support of this position Mr. Wood presented a comparison of the Assessor's valuation of his five vacant lots. The Petitioner illustrated the values determined for the subject property in the previous valuation cycle compared to the values determined for the current assessment period. Mr. Wood calculated that each of the lots were increased by 35%. Mr. Wood presented the difference applied to another property in the neighborhood showing a 12% increase between the two valuation dates. Based upon this comparison Petitioner asserts his property has been over valued and the appropriate increase for his property should be 12% as well.

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 is insufficient to prove that the assessed valuations of the subject properties are in error.

II. Other Evidence

Mr. Wood pointed to various limitations to the subject lots such as encroachment by an adjacent lot; proximity to wetlands; irregular shape(s) that constrain development; utility locations preventing construction and location within a flood hazard area. Mr. Wood did not present any sale transactions in the appeal. No adjustments were applied for differences between the single comparable property and Petitioner's lots. Mr. Wood relied only upon the Assessor's valuations and information contained in a local real estate publication.

The Board considers the relocation of utility lines without permission from the utility provider, and for R037430 to be bisected by a gas line to be unusual. The Board finds that Petitioner's testimony, without documentary support, is not credible.

Respondent's appraiser presented three reports compliant with current standards. Each of the three reports presented six comparable sales that were adjusted for significant property differences. Mr. Warton also consulted with the local planning department to confirm potential development scenarios.

The Board finds Petitioner presented insufficient probative evidence to convince the Board the Petitioner's position met the burden of proof. Although testimony was provided in support of the limitations of the properties no documentation was presented in support of Mr. Wood's position.

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.

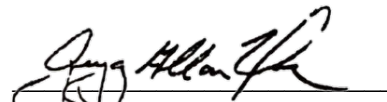
Section 39-8-108(2), C.R.S. 2019.

DATED and MAILED this 25th day of March, 2020.

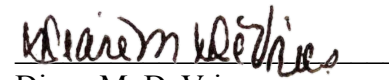
BOARD OF ASSESSMENT APPEALS:




Drafting Board Member:


Gregg Near

Concurring Board Member:


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

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


Jacqueline Lim