

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

**Docket No.: 75981**

Petitioner:

**DAVID W. TILNEY,**

v.

Respondent:

**TELLER COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on December 3, 2019, Debra Baumbach and Sondra Mercier presiding. Petitioner appeared pro se. Respondent was represented by Matthew A. Niznik, Esq. Petitioner is protesting the 2019 actual value of the subject property.

Dockets 75980 and 75981 were consolidated for purposes of the hearing only. Petitioner's Exhibit 1 and Respondent's Exhibits A-H and J were admitted as evidence.

Subject property is described as follows:

**1156 Anges Drive, Cripple Creek  
Teller County Schedule No. R0009571**

The subject is a 1.23-acre parcel of vacant land located in the Cripple Creek Mountain Estates. The site has minimal ground cover, moderate topography, average views, and roads on two sides.

Petitioner is requesting an actual value of \$4,700 for the subject property for tax year 2019. Respondent assigned a value of \$7,201 for the subject property for tax year 2019.

Petitioner presented 2019 Real Property Notices of Valuation (NOV) for three comparable sales. The NOVs identified the parcel sizes and assessor's actual value indication; however, there was no indication as to sales price, date of sale, or property features provided to support these as

sales. Petitioner contends that the value of the subject lot is diminished by the lack of trees or ground cover on the site; view of gas valves; and, presence of roadways on two sides.

Respondent's witness, Pamela Killebrew, Certified General Appraiser with the Teller County Assessor's Office presented four comparable sales ranging in sale price from \$8,000 to \$13,000 and in size from 1.13 to 1.24 acres. Ms. Killebrew testified that she selected sales of similar size to the subject that also had roadways on two sides. After adjustments were made, the sales indicated a value range from \$6,512 to \$10,171 for the subject, with a median of \$8,843 and a mean of \$8,592.

Respondent assigned an actual value of \$7,201 to the subject property for tax year 2019.

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). Although Petitioner testified to three sales he believed comparable, the evidence regarding the sales was insufficient for the Board to determine a sales price or comparability to the subject. The Board was not swayed by the evidence presented by Petitioner.

Respondent's witness, Ms. Killebrew, correctly completed a site-specific market analysis of the subject property, comparing sales of similar properties and adjusting for dissimilarities compared to the subject. The Board was swayed by the comparable sales and testimony presented by Respondent's witness.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2019.

### **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 12<sup>th</sup> day of December, 2019.

**BOARD OF ASSESSMENT APPEALS:**

**Drafting Board Member:**

*Sondra W Mercier*

Sondra W. Mercier

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

*Milla Lishchuk*

Milla Lishchuk

**Concurring Board Member:**

*Debra A. Baumbach*

Debra A. Baumbach,  
*concurring without modification pursuant to  
Section 39-2-127(2), C.R.S.*

