

<p align="center">BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</p> <p>1313 Sherman Street, Room 315 Denver, Colorado 80203</p>	<p>Docket No.: 76591</p>
<p>Petitioner:</p> <p>Angelo Mariani</p> <p>v.</p> <p>Respondent:</p> <p>Arapahoe County Board of Equalization</p>	
<p align="center">FINAL AGENCY ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on July 1, 2020, Diane DeVries and Valerie Bartell presiding. Petitioner Angelo Mariani appeared pro se. Respondent was represented by Benjamin Swartzendruber. Petitioner protests the actual value of the subject property for tax year 2019.

EXHIBITS

The Board admitted into evidence Respondent’s Exhibit A.

DESCRIPTION OF THE SUBJECT PROPERTY

Address: 790 South Dexter Street, Glendale, CO 80246
County Schedule No.: 031181046

The subject property is a single family residential property. The subject property’s actual value, as assigned by the County Board of Equalization (“CBOE”) below and as requested by Petitioner, are:

CBOE’s Assigned Value:	\$ 729,600
Petitioner’s Requested Value:	\$ 569,134
Board’s Concluded Value:	\$ 729,600

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 or classification 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 county board of equalization (CBOE) proceeding may be presented to this Board for a new and separate determination. *Id.* However, the Board may not impose a valuation on the property in excess of that set by the CBOE. § 39-8-108(5)(a), C.R.S.

APPLICABLE LAW

For property taxation purposes, the value of residential properties must be determined solely by the market approach to appraisal. *See* Colo. Const. art. X, § 20(8)(c); § 39-1-103(5)(a), C.R.S. The market approach relies on comparable sales, as required under section 39-1-103(8)(a)(I), C.R.S., 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.

To identify comparable sales, county assessors are required to collect and analyze sales that occurred within the 18-month period prior to July 1 immediately preceding the assessment date. § 39-1-104(10.2)(d), C.R.S. For tax year 2019, this 18-month period ends on June 30 of 2018. *See id.* If sufficient comparable sales are not available during this 18-month period to adequately appraise the property, then the assessor may use sales that occurred in preceding 6-month increments for a total maximum period of 5 years. *Id.*

FINDINGS AND CONCLUSIONS

The subject property is a single family residential property located in the City of Glendale, Colorado. Petitioner provided testimony, as did his two witnesses, Debbie Noble, a property manager and accountant, and Jerry Kempf, a licensed real estate broker in Colorado. Petitioner and Ms. Noble stated that the subject property is in a unique area, surrounded by multi-family development, and identifying comparable sales is difficult due to this unique attribute. Mr. Kempf supported Petitioner's and Ms. Noble's testimony, adding testimony to the interior condition of the property at the time of purchase in 2007. Petitioner, Ms. Noble and Mr. Kempf all testified that Respondent's Exhibit A utilized comparable sales in neighborhoods superior to the subject.

Respondent provided Exhibit A, an appraisal of the subject property, dated June 3, 2020, written by Michael Williams, a Certified Residential Appraiser working for Arapahoe County. Mr. Williams was also a witness for Respondent. Mr. Williams' report estimated the property value as of June 30, 2018 to be \$860,000. Exhibit A provided adjustments for location in comparable sales 1 and 3.

Petitioner claimed the June 3, 2020 appraisal was not an indicator of the subject value, as the comparable sales selected were in superior neighborhoods to the subject, and did not properly account for a location similar to the subject, which is surrounded by multi-family residential and commercial use. Petitioner's witnesses, Ms. Noble and Mr. Kempf also testified the comparable sales were insufficiently similar to the subject. Neither Petitioner, nor Petitioner's witnesses provided an appraisal or market analysis with comparable sales supporting Petitioner's requested value.

The Board places more weight on the evidence of Respondent than on the evidence of Petitioner, primarily because despite the fact that the Petitioner argued the comparable sales utilized were superior to the subject, Respondent's Exhibit A included adjustments for superior neighborhoods, whereas no appraisal, market analysis or comparable sales supporting Petitioner's value were provided for analysis.

Petitioner presented no probative evidence to prove that the subject property was incorrectly valued for tax year 2019. The Board concludes that Petitioner has not met his burden of proving that the assigned value for tax year 2019 is incorrect.

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.

See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); see also § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

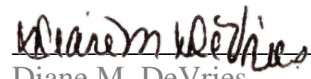
DATED and MAILED this 21st day of December 2020.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:

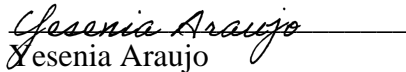

Valerie C. Bartell

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 order of the Board of Assessment Appeals.


Gesenia Araujo