

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 76643
Petitioner: ALAN AINSWORTH, v. Respondent: LAKE COUNTY BOARD OF EQUALIZATION.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on February 20, 2020, Diane M. DeVries and Samuel M. Forsyth presiding. Petitioner appeared pro se. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2019 actual value of the subject property.

EXHIBITS AND WITNESSES

The Board admitted into evidence Petitioner’s Exhibits 1-6, Respondent’s Exhibits A-B, and expert testimony by Respondent’s witness Jacqueline Whelihan, Colorado Licensed Ad Valorem Appraiser.

DESCRIPTION OF THE SUBJECT PROPERTY

Address: 410 E. 8th Street, Leadville, Colorado
Arapahoe County Schedule No.: R005333

The subject property is classified as residential property. It contains a total acreage of 0.12 acres, and a 1 and ½-story single family residence with 1,260 square feet. The improvement on this property was constructed in 1888. The improvement has asphalt siding shingle and a metal roof. The home has one bedroom and one-and-one-half baths. Petitioner claims that the assigned actual value of the subject property is incorrect. The subject property’s actual values as assigned by the County Board of Equalization (CBOE) below and as requested by each party are:

CBOE’s Assigned Value:	\$ 167,052
Respondent’s Requested Value:	\$ 167,052
Petitioner’s Requested Value:	\$ 80,000 - 130,000

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 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 the Board of Assessment Appeals, 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).

APPLICABLE LAW

In valuing residential properties, Colorado's statutes and constitution require that the valuation of residential property be determined solely by the market approach to appraisal. Colo. Const. art. X, § 20(8)(c); § 39-1-103(8)(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.

While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under Colorado's statutes or constitution. *Crocog Co. v. Arapahoe Cty. Bd. of Equalization*, 813 P.2d 768, 770 (Colo. App. 1990).

BOARD'S FINDINGS AND CONCLUSIONS

Petitioner is a former employee of the Lake County Assessor's Office (Assessor), having worked there for brief periods of time. Petitioner presented data that was prepared by other employees of that office around the time of his employment there. Based on this data, Petitioner expressed concern about the Assessor's methods for valuing properties across the county, such as the Assessor's failure to perform certain physical inspections. *See* Ex. 1, p. 1 ("doing actual, on-site, physical inspections is the best, indeed the only way to get accurate descriptions of property"); *see also* Ex. 1, p. 3 ("No hint at conducting an inspection"). Petitioner concludes that these methods result in values that are not fair or equitable.

The Board finds that Petitioner's testimony and exhibits are not credible evidence of error in the assigned value of the subject property, for several reasons. First, the data in Exhibit 4 was developed by the Assessor for the 2017 and 2018 tax years, rather than for the tax year at issue

(2019). Second, the type of data provided does not reflect the market value of the subject property. The Board finds that Petitioner’s testimony and exhibits, including those pertaining to the Assessor’s methods of valuing other properties within the population, are not probative of the actual value of the subject property. Third, Petitioner provided no appraisal or other exhibits or testimony regarding the market value of the subject property. When the Board Chairperson asked Petitioner for his estimate of the subject property’s value, Petitioner stated that it was “between \$80,000 and \$130,000.” With no evidence of an alternative value, the Board finds it is unlikely that the assigned value is incorrect.

The Board concludes that Petitioner failed to present sufficient credible evidence to prove that the assigned actual value of the subject property is incorrect.

Except as they relate to the actual value of the subject property, Petitioner’s claims regarding the Assessor’s valuations of properties that he does not own are beyond the jurisdiction of this Board.

Respondent’s expert witness, Ms. Whelihan, testified to the appraisal report that she provided. Ms. Whelihan concluded to a value of \$167,052. The Board finds that Ms. Whelihan attempted to perform a physical inspection of the interior of the property, but Petitioner denied her access, and as a result Ms. Whelihan properly relied on the best information available to identify the characteristics of the subject property, including an exterior inspection. In her appraisal report, Ms. Whelihan identified and made adjustments to three timely, confirmed comparable sales. All of the sales are average quality of construction and are 1 and ½-story design. Before adjustments, the sale prices range from \$169,000 to \$207,000. After adjustments were made for changes in market conditions over time, amenities, condition, square footage, heating, and lot size, the adjusted sale prices range from \$168,773 to \$191,033. Respondent provided an appraisal in which the property was appropriately identified; three comparable sales were appropriately selected and adjusted; and a conclusion of value was supported by the adjustments.

ORDER

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.

DATED and MAILED this 10th day of April 2020.

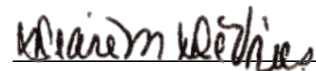
BOARD OF ASSESSMENT APPEALS

Drafting Board Member:



Samuel M. Forsyth

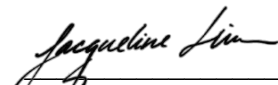
Concurring Board Member:



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