

Petitioners' Requested Value: \$339,790
Board's Concluded Value: \$381,843

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 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.

EVIDENCE PRESENTED BEFORE THE BOARD

Petitioners argue the Douglas County Assessor has failed to consider several factors that, if correctly determined, would result in a lower actual value. The Board finds the issues presented

by the Petitioners are:

- The Assessor has incorrectly valued the home's condition.
- The Assessor has not presented sufficiently detailed descriptions of the comparable sales used in their valuation.
- The subject home is located on a block where the occupants of nearby homes have committed acts of domestic violence, and excessive noise and fugitives from justice exist, the latter having resulted in numerous police contacts, a murder investigation and one appearance by a SWAT team.
- The adjoining neighbors' tenants have been disruptive and unconcerned with maintenance which has so damaged the value of Petitioners' home it is doubtful a buyer would purchase their home at the current appraised value.
- Petitioners' home requires numerous repairs. Petitioners have obtained an estimate of \$42,052.80 from a contractor to put the home and landscape in upkeep status.
- Petitioners' home value is adversely influenced by traffic from their proximity to a collector street.

Petitioners request a reduction from the Assessor's actual value to \$339,790.

Respondent's witness Christine Larson, an Ad Valorem appraiser for the Douglas County Assessor, presented an appraisal report concluding to a value of \$388,000. The five comparable sales presented by the witness range in sale price from \$385,000 to \$427,000 and ranged in square footage from 1,490 to 1,707. Adjustments were applied for significant property differences such as time (market conditions), size, location and condition among others. Three of the sales were located on the same street as the subject with one, Sale No. 1, located less than 400 square feet from the subject and exposed to the same adverse locational conditions. The subject's condition was rated as "fair" whereas all of the comparables were rated as "average" and were adjusted downward for this aspect.

FINDINGS AND CONCLUSIONS

The Board notes that Respondent's witness was not provided a timely opportunity for an interior inspection or access to the physical property in any manner. Thus, the witness was restricted to only an exterior view of the property features. The Board finds Petitioner's testimony and evidence regarding the actual value of the subject was not supported by sufficient market data, including recent comparable sales and written bid(s) by licensed contractor(s).

The Board finds Respondent's witness provided an appraisal report consistent with the Uniform Standards of Professional Appraisal Practice. Sufficient probative evidence was provided to the Board by Respondent, including recent comparable sales and appropriate adjustments to the sales. The Board finds the witness's testimony and exhibit to be credible and supportive of the Assessor's value opinion. The Board finds Petitioners failed to meet their burden of proving the Assessor incorrectly valued the subject property for tax year 2019.

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.

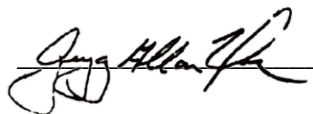
See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); see also § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

DATED and MAILED this 28th day of December, 2020.

BOARD OF ASSESSMENT APPEALS:

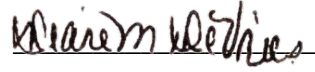
Drafting Board Member:

Gregg Near



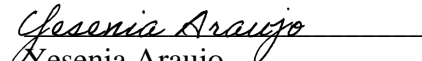
Concurring Board Member:

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 order of
the Board of Assessment Appeals.


Yesenia Araujo