

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	
Petitioner:  <b>HELEN STONER</b>  v. Respondent:  <b>ADAMS COUNTY BOARD OF EQUALIZATION</b>	
<b>FINAL AGENCY ORDER</b>	

**Docket No.: 77119**

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on June 16, 2020, Debra Baumbach and Samuel M. Forsyth presiding. Petitioner appeared pro se. Respondent was represented by Meredith Van Horn. Petitioner protests the actual value of the subject property for tax year 2019.

**EXHIBITS**

The Board admitted into evidence Petitioner’s Exhibit 1 and Respondent’s Exhibit A.

**DESCRIPTION OF THE SUBJECT PROPERTY**

Address: 9381 Nagel Drive, Thornton, Colorado  
County Parcel Number: 0171923210028  
County Schedule Number: R0052379

The subject property is improved with a single-story residence constructed in 1955. Improvements are in average condition. The residence has 1,176 square feet and includes three bedrooms and one and a half baths. The site size is 6,800 square feet. The subject property’s actual value, as assigned by the County Board of Equalization (“CBOE”) below and as requested by Petitioner and Respondent, is:

CBOE's Assigned Value: \$ 285,221  
Respondent's Recommended Value: \$ 270,000  
Petitioner's Requested Value: \$ 200,000 to \$235,000

### **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**

Petitioner provided eight comparable sales, which were also originally relied on by the Assessor in the County Board of Equalization hearing. Petitioner provided an additional 10 comparable sales. The sale prices of the 10 comparable sales provided by the Petitioner range from \$192,000 to \$241,000. The date of sale of the Petitioner's comparables ranged from July 2016 to January 2018. The average period of time between the sale date of the comparables and the appraisal date of June 30, 2018 was approximately 15 months. Petitioner did not adjust for change in market conditions between the sale price of the comparable sales at time of sale and the time adjusted sale prices for the comparables. Petitioner testified that the subject home has had no updating, has no garage/carport, no covered patio, and no hardwood floors. Petitioner contends that Respondent has not adjusted the comparable sales for these attributes. Petitioner provided no adjustment grid to account for market adjustments for these attributes.

Respondent called as an expert witness Pierre Lescano, an Ad Valorem licensed appraiser. Mr. Lescano is employed by the Adams County Assessor's office. Mr. Lescano presented a Restricted Appraisal Report that he testified was in compliance with the Uniform Standards of Professional Appraisal Practice. The sole approach to value, as required by statute, was the sales comparison (market) approach. Respondent identified six comparable sales which ranged in sale price from \$228,000 to \$292,000. After adjustment for market conditions at time of sale, the time adjusted sale price ranged from \$267,020 to \$299,968. The average number of months between the sale date of the comparables and the appraisal date was approximately 6.5 months. Respondent identified the following key variables which attribute to value: time (market condition), patio, baths, garage, site size, covered patio, age and square footage. Respondent testified that a "condition of improvements" adjustment is reflected in the "age" variable in his market adjustment grid. He further testified that he adjusted for remodeling and updating of his comparable sales by adjusting the actual age of a comparable property; in other words, the "age" variable in his market adjustment grid is in practice an "effective age" variable. The Board finds these adjustments to be appropriate and supported by the evidence. After adjustments, the value of Respondent's comparable sales ranged from \$262,387 to \$277,712. Respondent reconciled to a value of \$270,000 for the subject property.

The Board concludes that the sales provided by the Petitioner, absent quantified adjustments and adjustments for date of sale, are not persuasive evidence of the value of the actual value of the subject property for tax year 2019. However, the Board finds that the Respondent's appraisal report is persuasive evidence of the value of the subject property. Respondent's appraiser appropriately adjusted his comparable sales for the attributes of value that determine value in this

market. The Board therefore relies on the testimony of Respondent's appraiser, and Respondent's appraisal (Exhibit A), in finding that the value of the subject property for tax year 2019 is \$270,000.

### **ORDER**

The petition is GRANTED. Respondent is ordered to reduce the 2019 actual value of the subject property to \$270,000. The Adams County Assessor is directed to change its records accordingly.

### **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 8th day of September 2020.

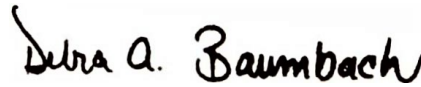
**BOARD OF ASSESSMENT APPEALS:**

Drafting Board Member:



Samuel M. Forsyth

Concurring Board Member:



Debra Baumbach

*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.



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Casie Stokes