

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 78849
Petitioner: 901 PENNSYLVANIA STREET LLC, v. Respondent: DENVER COUNTY BOARD OF EQUALIZATION.	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on October 16, 2020, Amy J. Williams and Diane M. DeVries, presiding. Property owner Jim Schoettler appeared pro se on behalf of Petitioner. Respondent was represented by Denver County Assistant County Attorney, Charles T. Solomon. Petitioner protests the actual value of the subject property for tax year 2019.

EXHIBITS

The Board admitted into evidence Petitioner’s Exhibits 1 through 6 and Respondent’s Exhibit A and Rebuttal Exhibit B.

DESCRIPTION OF THE SUBJECT PROPERTY

Address: 901 N. Pennsylvania Street, Denver, CO 80203
County Schedule No.: 05038-15-008-000

The subject property is a 10,625 square foot, single family mansion “conversion” located in the Capitol Hill neighborhood in Denver, Colorado. The “conversion” designation indicates that the residence has been converted to multiple units, in the subject instance, three. The subject property’s actual values, as assigned by the County Board of Equalization (“CBOE”) below, as requested by Petitioner, and as concluded by the Board are:

CBOE’s Assigned Value:	\$ 1,434,600
Petitioner’s Requested Value:	\$ 1,022,000
Board’s Concluded Value:	\$ 1,434,600

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 Board finds Petitioner's evidence, including an inspection report, subject interior and exterior photos, various cost estimates for property improvements and repairs and MLS listing sheets of area sales, to be helpful in understanding the subject property. Overall, Petitioner's evidence and testimony centered on deferred maintenance present in the subject, specifically, the need to re-wire, re-plumb, replace heating system, re-roof, painting of exterior and replacement of deteriorating landscaping. Mr. Greg Johnson, Real Estate Broker with Acquire Real Estate, specializing in multi-family properties, testified that the square footage of the property was large compared to the overall bedroom count, the subject having 10,625 total square feet but only five bedrooms over three total apartment units. Petitioner argued Denver County should assign the subject property a lower condition and quality rating than the "C2" rating it assigned.

Respondent employed the market approach, also known as the Sales Comparison Approach, within a property specific appraisal, selecting six comparable sales. After application of adjustments, the sales indicated a value range for the subject of \$1,398,000 to \$2,115,000 for the subject property. Mr. Devin Patterson, Residential Appraiser with the Denver County Assessor's Office, testified that he selected historic or landmarked, converted mansions within reasonable proximity to the subject as comparable sales. Mr. Patterson agreed with Petitioner's witness that the unit size of the subject was large compared to available sales. He also stated that the Denver County condition classification of C2 was reflective of a property with cosmetic improvements, not reflective of an older property that has had all major system components upgraded.

The Board finds Respondent's evidence and testimony to be more persuasive. The Board recognizes that the subject's unit size relative to bedroom count creates a more challenging appraisal problem. However, Respondent's comparable selection and use of a broader number of sales encompassing more property characteristic variations appropriately represents the subject property's value under the market approach. Additionally, based upon Petitioner's C2 condition classification definition, the Board finds the subject's condition to reasonably match the C2 category. Resultantly, the Board finds that Petitioner failed to present sufficient evidence to prove that the subject property was incorrectly valued.

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 5th day of April, 2021.

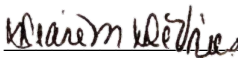
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Amy J. Williams

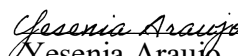
Concurring Board Member:



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