

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 78935</b>
Petitioner:  <b>William Joseph Devillier</b>  v.  Respondent:  <b>Adams County Board of Equalization</b>	
<b>FINAL AGENCY ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on August 25, 2020, Debra Baumbach and John DeRungs presiding. Petitioner William Joseph Devillier appeared pro se. Respondent was represented by Meredith Van Horn, Esq. Petitioner protests the actual value of the subject property for tax year 2019.

**EXHIBITS**

The Board admitted into evidence Petitioner’s Exhibits, consisting of 78 pages attached to the Petition on appeal, numbered 3-81, and Respondent’s Exhibit A.

**DESCRIPTION OF THE SUBJECT PROPERTY**

13725 St. Paul Street, Thornton, Colorado  
County Schedule No.: R0131710

The subject property is improved with a single-family detached residence in the Cherrywood subdivision built in 2012. It has a two- story design consisting of four bedrooms and three and a half baths in 2,712 square feet. A remediation was completed for methamphetamine (meth) contamination within a month prior to January 1, 2019, the date on which a property’s condition was set for ad valorem tax purposes. Photographs depicting the condition of the property were part of the Envirospec Consulting report that was prepared for the Petitioner.

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:	\$489,556
Petitioner's Requested Value:	\$250,000 - \$300,000
Respondent's Requested Value:	\$489,556

### **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.

## **FINDINGS AND CONCLUSIONS**

Petitioner requested a value at \$250,000 because he believed that his home's condition after remediation for methamphetamine contamination would require repairs that he hadn't accounted for and buyers would pay a below market price for this type of property. To substantiate his claim, he used photographs of affected areas in his home, contractor and supplier estimates and receipts of cost outlays of \$163,070 for repair and replacement of items to restore the affected areas to a marketable condition. He also included a Denver Post article from June 2019 about a Denver home whose listing price was lowered by 37.5% after an inspection by a prospective buyer revealed meth contamination. Likely buyers were then reported to be contractors who would have to pay to remediate, restore and then re-sell the home and still collect a reasonable profit to make such a venture worthwhile.

Respondent presented expert testimony by Jeff Maldonado, employed as a residential appraiser by the Adams County Assessor's Office, who testified in relevant part that completed an appraisal of the subject property for tax year 2019 using the market approach. He considered the subject in the post-remediation state in which it existed on January 1, 2019. He gave equal weight to four comparables of equal or nearly equal square footage within a few blocks of subject and applied a market condition adjustment to their sales prices. That yielded an overall adjusted range of value for the subject from \$527,264 to \$593,112. Having reached a requested value of \$489,556 for the subject, Respondent appears to recognize that an adjustment for condition is warranted in the range of from \$37,708 to \$103,556, or from 7% to 17%. Mr. Maldonado testified that he considered and recognized the condition of the subject on January 1, 2019 in deciding to leave the value the same as it was for tax year 2017. He testified that he could have reconciled to a higher value, but recognized no increase in value over 2017 was warranted.

The Board finds Mr. Maldonado's appraised value properly took account of the condition of the subject property and is persuasive evidence that the Assessor's value is correct. The additional cost to re-sell the property would also normally be accounted for, but so would an offsetting benefit of the subject property's completed remediation on the value date. Finally, the Petitioner's suggestion that the correct value for the subject is \$250,000, (or just 4% above its original purchase price six years before at \$240,000), was rebutted by the market conditions and increases in value in comparable sales shown during the data-gathering period in Mr. Maldonado's appraisal report.

The Board finds therefore that by failing to recognize that anticipated costs to restore the property have been accounted for in the Assessor's value, the 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 28th day of December, 2020.

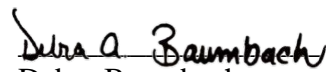
**BOARD OF ASSESSMENT APPEALS:**

Drafting Board Member:

  
John DeRungs



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.

*Yesenia Araujo* \_\_\_\_\_  
Yesenia Araujo