

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 78957
Petitioner: RICHARD AND VERA LADTKOW, v. Respondent: JEFFERSON COUNTY BOARD OF EQUALIZATION.	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on December 10, 2020, Gregg Near and John DeRungs presiding. Petitioner Richard Ladtkow appeared pro se. Respondent was represented by Jason Soronson, Esq. 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

8777 Eldridge Street, Arvada, Colorado 80005
County Schedule No.: 300450930

The subject property is a single family residence in the Wild Grass planned development, built in 2015 by Remington Homes on almost one-third of an acre. It has a ranch design with 1,691 SF on the main level with two bedrooms and two bathrooms, and a 1,405 SF unfinished basement in original condition. The rolling topography that affords some neighborhood homes with Front Range views, (especially on the perimeter of the subdivision) makes these homes very appealing. In this case, however, Petitioner’s property has a low-lying location within the subdivision.

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:	\$566,400
Respondent's Recommended Value:	\$566,400
Petitioner's Requested Value:	\$489,744
Board's Concluded Value:	\$489,744

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

After investigating sales data in this subdivision, both parties adopted two of what they

deemed the only three available comparable sale properties. Where only limited data is available, the Board recognizes that extending the search beyond the 18-month period up to 60 months is called for. *See* § 39-1-104(10.2)(d), C.R.S. The Board finds that in this case there is not adequate comparable valuation data within the 18-month period to adequately determine the level of value, and therefore utilizes the extended data-gathering period. This allows the Board to consider Petitioner's evidence of the sale of the newly-built subject property in September 2014, for \$358,000. After time adjustment, this sale supports his recommended value of \$489,744. The Board also considers the sale of another Remington home, at 14352 W. 87th Drive, that sold newly-built just a month later, in October 2014. It was better located than the subject, on the perimeter of the subdivision with open space views. It sold for \$474,700, or 33% more than the subject did.

Respondent presented expert testimony by Renee Nelson, Ad Valorem Appraiser employed by the Jefferson County Assessor's Office. In testimony, Ms. Nelson reported that she gave equal weight to her three comparable sales after various adjustments. She included the August 2016 sale of 14352 W. 87th Dr. as her Sale 2. But, despite their location on the subdivision's perimeter, which supplied them with open space views, she made no adjustment to her Sales 1 or 2 to account for their superior views. The Board notes that Ms. Nelson recognizes and makes downward adjustments to the 2016 sale price of 14352 W. 87th Drive for characteristics other than view, but the Board infers from the data presented that these characteristics would not fully account for the 33% higher sale price of Sale 2 over the subject property in 2014.

The Board favors a time-adjusted indication of value from the September 2014 sale of the subject property, and finds this to be the most persuasive evidence of the subject property. Further, comparison of the original sale price of the subject to the original sale price of the home on 14352 W. 87th Drive suggests Respondent failed to adequately adjust for the subject's location, which the Board finds is inferior to sales on the perimeter of the subdivision. Petitioner has met his burden of proving that the assigned value for tax year 2019 is incorrect. The Board finds the appropriate value for the subject property for tax year 2019 is \$489,744.

ORDER

The petition is **GRANTED**. The Jefferson County Assessor's Office is ordered to change reflect a 2019 value of \$489,744 for the subject property.

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 7th day of January, 2021.

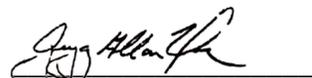
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



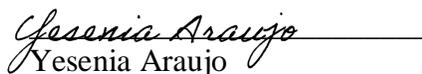

John DeRungs

Concurring Board Member:


Gregg Near

*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