

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LINDA L. FEATHER,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 79160</p>
<p>FINAL AGENCY ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on January 25, 2021, Amy Williams and Sondra Mercier presiding. Petitioner, Linda L. Feather, appeared pro se. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2019 actual value of the subject property.

EXHIBITS AND EXPERT WITNESSES

The Board admitted Petitioner’s attachments to the Petition into evidence as Exhibit 1. The Board admitted Respondent’s Exhibit A and Rebuttal Exhibit B. The Board admitted David Martinez, Ad Valorem Appraiser with the Boulder County Assessor’s Office, as an expert witness.

DESCRIPTION OF THE SUBJECT PROPERTY

**4435 Grinnell Avenue, Boulder
Boulder County Schedule No. R0010836**

The subject is a split-level residence with 1,280 square feet of above grade area. The residence was constructed in 1967, with minimal upgrades since completion. The home is situated on a 7,135-square foot residential lot.

The subject property’s actual values, as assigned by the County Board of Equalization (“CBOE”) below and as recommended and requested by each party, are:

CBOE’s Assigned Value:	\$720,000
Respondent’s Recommended Value:	\$684,800
Petitioner’s Requested Value:	\$650,000

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 is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198 (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 Commission*, 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 the BAA, 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 Board reviews every case de novo. See *Bd. of Assessment Appeals v. Valley Country Club*, 792 P.2d 299, 301 (Colo. 1990). In general, a 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 board of equalization proceeding may be presented to the Board for a new and separate determination. *Id.*

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 contends that her home is one of the smallest in her South Boulder neighborhood, causing it to be difficult to find comparable sales. Ms. Feather reported that her home is in a busy area, near Fairview High School and other schools. She reported settling and cracks in the home, especially in the lower level, which resulted from area flooding in 2013.

Ms. Feather presented three sales for consideration of the Board. All three sales closed in 2017, within the appropriate base period. They ranged in size from 1,066 to 1,580 square feet and were similar in age to the subject. Petitioner's sales were located in the Mountain Terrace neighborhood. Ms. Feather analyzed the three sales based on the time adjusted sales price divided

by the square footage of each sale; however, no adjustments were made to the comparable sales for size, basement finish, number of baths or other differences in characteristics.

Respondent's witness, Mr. Martinez, completed a site-specific appraisal of the subject property, comparing five sales to the subject and adjusting for time and a variety of characteristics. After adjustment, Respondent's sales indicated a value range of \$684,755 to \$814,370. Mr. Martinez concluded to a value at the low end of the range, \$684,800. (EXH. A, pgs. 17-18.) As further evidence, Mr. Martinez applied the same adjustments to Petitioner's three sales, which produced a value range of \$681,842 to \$752,810. (EXH. B.)

Based on the findings and conclusions presented, the Board finds that Petitioner presented sufficient probative evidence, including testimony, to prove that the subject property was incorrectly valued for tax year 2019. Based on the evidence, the Board was convinced that the subject residence was dated and had not received the upgrades reported for the comparable sales. While Respondent applied adjustments for differences in age, the Board finds that the subject should be valued at the lower end of the indicated range. After consideration of both sets of adjusted sales, the Board reduces the value of the subject to \$681,800 for 2019.

ORDER

The petition is **GRANTED**. The Board finds that Petitioner has met her burden of proving that the 2019 taxable value of the property is incorrect. Respondent is ordered to reduce the 2019 actual value of the subject property to \$681,800.

The Boulder County Assessor is directed to change his/her 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 30th day of April, 2021.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Sondra W. Mercier

Concurring Board Member:



Amy Williams

*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 decision of the Board of Assessment Appeals.



Casie Stokes