

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT FORBES,</p> <p>v.</p> <p>Respondent:</p> <p>LAKE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 76030</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 24, 2020, Debra Baumbach and Sondra W. Mercier presiding. Petitioner appeared pro se. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2019 actual value of the subject property.

Petitioner’s Exhibits 1-3 and Respondent’s Exhibits A and B were admitted as evidence.

The subject property consists of a two-story modular home, with 2,224 square feet of living area, situated on a 2.86-acre lot located in the West Pines subdivision. For the tax year at issue, the actual values of the subject as requested by Petitioner, and as assigned by the Lake County Assessor, are summarized in the table below.

Subject Description	Subject Address	Petitioner’s Requested Value	Assessor’s Assigned Value
Lake County Acct. No. R003433	150 Snowshoe Rabbit Drive, Leadville, CO	\$390,110	\$450,170

Petitioner contends that the value assigned to the subject site was not supported by comparable sales. Petitioner presented eight comparable sales. Of these, seven sales are properties located in a neighboring subdivision called Mountain Pines Ranch, and a single sale is a property located in the same subdivision as the subject subdivision, West Pines. Petitioner noted the significantly lower price per acre for properties located in Mountain Pines Ranch compared to the price per acre for the subject property. Petitioner is requesting that his property be valued at \$22,200 per acre or \$63,492. Petitioner testified that he agreed with the contributory value Respondent placed on the improvement, at \$326,618. Thus, based solely on the land component of the subject property’s value, Petitioner is requesting that the total value be reduced to \$390,110.

Respondent's witness, Jacqueline S. Whelihan, Colorado Ad Valorem Appraiser with the Lake County Assessor's Office, presented two comparable sales ranging in sales price from \$275,000 to \$419,000. Both comparable sales were also two-story modular homes of similar age to the subject. After adjustments were made, the sales ranged from \$453,067 to \$564,251. Ms. Whelihan concluded that the sales supported the value assigned to the subject for 2019. With regard to Petitioner's assertion that the subject site was overvalued, Ms. Whelihan compared the subject's location in West Pines to that of the sales located across County Road 4 to the south. Ms. Whelihan notes that West Pines is a comparatively small subdivision with only seven lots (including the subject lot), is located on a road that terminates in a cul-de-sac with no pass thru traffic, and has a 10,000 square foot building envelope that maximizes views and privacy better than the lots in Mountain Pines Ranch.

BURDEN OF PROOF

In a *de novo* BAA proceeding, a taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the challenged valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 208 (Colo. 2005). 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 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).

BOARD'S FINDINGS AND CONCLUSIONS

After careful consideration of all of the evidence, including testimony presented at the hearing, the Board finds that Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2019.

The most notable factor in the Board's decision is that Colorado statutory law does not allow comparison of component parts of total value. In *Cherne v. Boulder Cty. Bd. of Equalization*, 885 P.2d 258, 259 (Colo. App. 1994), the Court of Appeals held that at each level of appeal of a property valuation for assessment:

a party may seek review of only the total valuation for assessment, and not of the component parts of that total. Each [governing statute] speaks only of the right to appeal the 'value' or the 'valuation assessment set by the Assessor.' Notably absent from these statutes is language that would permit a party to limit the scope of the protest by appealing only a portion or component of the assessed value.

For these reasons, the Board cannot consider Petitioner's argument for incorrect land value for an improved property.

Another notable factor in the Board's decision is Respondent's analysis of two sales for similar improved properties, which indicated an adjusted range of \$453,067 to \$564,251, above the value assigned for 2019 of \$450,170.

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.

Section 39-8-108(2), C.R.S.


DATED and MAILED this 6th day of March, 2020.

BOARD OF ASSESSMENT APPEALS


Drafting Board Member:


Sondra W. Mercier

Concurring Board Member:


Debra A. 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 decision of the Board of Assessment Appeals.


Jacqueline Lim