

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>LOUIS A. KOZIOL AND MARY KOZIOL,</p> <p>v.</p> <p>Respondent:</p> <p>TELLER COUNTY BOARD OF COMMISSIONERS.</p>	<p>▲</p>
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Louis A. & Mary Koziol Address: 285 Morning Star Ct. Woodland Park, Colorado 80863 Phone Number: (719) 687-0786 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 37011</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 30, 2001, Karen E. Hart, Mark R. Linné, and Claudia D. Klein presiding. Petitioner appeared pro se. Respondent was represented by Stephen A. Hess, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**LOT 55, MORNING SUN SOLAR COMMUNITY FLG 1
(Teller County Schedule Number R0023487)**

Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 1999. The subject property is a frame construction, single-family residence built in 1985 and containing 1,773 square feet of living area above grade and a full, walk-out basement with 218 square feet unfinished.

ISSUES:

Petitioners:

Petitioners contend that the Respondent has overvalued the subject property due to significant deficiencies in construction, shoddy workmanship, and extensive repairs needed, which were not given proper consideration.

Respondent:

Respondent contends that the assigned value is reasonable, that the allowances for the property's deficiencies are very generous, and that the Petitioners are requesting a value that is 30% lower than the price he purchased the property for 15 years ago.

FINDINGS OF FACT:

1. Petitioner, Mr. Louis Koziol, presented the appeal on behalf of Petitioners.
2. Petitioners presented 4 comparable sales ranging in sales price from \$214,900.00 to \$257,500.00 and in size from 2,224 to 2,776 square feet. These comparable sales, ranging in date from July 6, 1999 to October 5, 1999, occurred after the base period of June 30, 1998.
3. Petitioners presented repair estimates to indicate the cost of completing repairs they consider necessary to bring the subject property to a similar level with surrounding properties. Mr. Koziol testified that the windows do not fit the rough openings and will not open and close properly. Petitioners estimate the cost of window repairs to be \$31,455.00.
4. Under cross-examination, Mr. Koziol admitted that some of the repairs indicated are of a cosmetic nature. He also testified that he had not engaged a structural engineer to ascertain what repairs are actually needed, and has relied solely on advice from contractors. He obtained an estimate of \$160,000.00 to correct structural defects, but could not get a delineation of the repairs covered by the estimate. He admitted that many of the problems existed when he purchased the property 15 years ago, but they are getting worse.
5. Petitioners presented a video showing deficiencies in their property.
6. Petitioners are requesting a 1999 actual value of \$118,000.00 for the subject property.
7. Respondent's witness, Ms. Debbie Vallejo, an Appraiser with the Teller County Assessor's Office, presented an indicated value of \$267,946.00 for the subject property based on the market approach.

8. Respondent's witness presented 6 comparable sales ranging in sales price from \$229,900.00 to \$305,000.00 and in size from 2,491 to 2,946 square feet. After adjustments were made, the sales ranged from \$258,685.00 to \$307,721.00.

9. Respondent's witness testified that she attempted to choose sales that occurred within the subject subdivision and were comparable in building materials. She made adjustments for the condition and structural defects of the subject property based on paired-sales analysis. She feels that this is the only fair way to estimate the market value of the needed repairs. She testified that actual repair cost is not a factor in appraising a residential property.

10. Respondent assigned an actual value of \$267,946.00 to the subject property for tax year 1999, with a value level of June 30, 1998.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 1999.

2. Both parties agreed that the subject property was built with substandard materials, and that some deduction should be made for inferior quality and inferior condition. The issue is how much of a deduction should be made for these conditions. Both Petitioners' and Respondent's evidence presented was inconclusive.

3. The majority of the Petitioners' evidence is dated after the base period and cannot be considered. The Petitioner has admitted that some of the repairs indicated are of a cosmetic nature. The Petitioner also testified that he had not engaged a structural engineer to ascertain what repairs are actually needed, and has relied solely on advice from contractors. In addition, some of the repairs indicated are typical wear and tear on a property and not related to structural defects. The Petitioners' estimate of \$160,000.00 to correct structural defects does not itemize work to be done.

4. The Board concludes that the value should be at the lower end of the value range indicated from the Respondent's comparable sales. Upon additional analysis and review of the comparables presented, the Board further concludes that the adjusted sales prices of the comparables should be lowered by approximately 10%, primarily due to the adjustment for the incremental size difference between the subject and the comparables. The resulting value range is \$232,816.00 to \$276,949.00. The Board concludes that the value should be \$232,816.00 prior to additional adjustments.

5. The Board accepts the Respondent's quality and condition adjustments with the exception of the window adjustment. The Respondent's appraisal indicates that the windows are too small for the rough openings, will not function or lock, and need to be replaced. This comment indicates that the windows have no remaining economic life. Items which are necessary to the use of the home, such as heating systems, plumbing systems, electrical systems, windows, roofs, etc., typically do see a dollar-for-dollar return; and in some instances, properties are discounted beyond the replacement cost of these items to compensate for inconvenience. Therefore, it is determined that the Respondent's estimate of \$8,000.00 for windows is incorrect. The Petitioners' estimate of \$31,455.00 is deemed to be more reliable, and that an additional deduction of \$23,455.00 is warranted.

6. The Board concludes that the 1999 actual value of the subject property should be reduced to \$209,361.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioners based on a 1999 actual value for the subject property of \$209,361.00.

The Teller County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not make the aforementioned recommendation or result of Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

DATED and MAILED this 14th day of September, 2001

BOARD OF ASSESSMENT APPEALS

Karen E. Hart
Karen E. Hart

Mark R. Linné
Mark R. Linné

Claudia D. Klein
Claudia D. Klein

This decision was put on the record

SEP 14 2001

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Diane Von Dollen
Diane Von Dollen



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