

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MOSES LERNER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>EAGLE COUNTY BOARD OF COMMISSIONERS.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Moses Lerner Address: 9879 Santa Monica Boulevard Beverly Hill, California 90212 Phone Number: (310) 553-0316 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 38033</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 4, 2002, Debra A. Baumbach and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Diane H. Mauriello, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**RAMS-HORN LODGE CONDOMINIUMS UNIT C-18  
(Eagle County Schedule No. R039921)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 1988 thru 2000 with the exception of 1999. The subject property consists of a condominium unit in Vail, Colorado.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property's square footage has been listed incorrectly for many years by the assessor. He believes there was a clerical error, which would allow for abatements beyond the statutory two-year limit.

### **Respondent:**

Respondent contends that Petitioner cannot obtain abatements for years beyond 1998, in accordance with C.R.S. 39-10-114(1). Respondent is willing to stipulate to the same value and square footage as determined in the Board of Assessment Appeals' 2000 hearing, Docket Number 35429. Petitioner has refused the assessor's office request for access to the subject property for purposes of determining the correct square footage.

## **FINDINGS OF FACT:**

1. The Board did not accept jurisdiction for tax years prior to 1998.
2. Mr. Moses Lerner, Petitioner, presented the appeal on his own behalf.
3. Mr. Lerner originally based his requested abatement/refund on his condominium unit area of 2,120 square feet, as determined by the Board of Assessment Appeals (BAA) in his 2000 appeal, Docket Number 35429.
4. Respondent was willing to stipulate to the condominium size of 2,120 square feet, resulting in a recommended value reduction to \$1,568,800.00, the same value as assigned by the BAA for tax year 1999.
5. Mr. Lerner would not accept the stipulated square footage or value, as he now believes the correct square footage should be 2,065.
6. Mr. Lerner testified that he could not change the condominium declaration, as recommend by the BAA in his 2000 hearing, to show the correct size of his condominium unit due to the need for approval by 75% of other homeowners to effect such a change.
7. Mr. Lerner testified that he has denied the assessor's office access to measure his property; he believes the condominium's size can only be determined by a surveyor. He contacted a surveyor, whom he discovered had already measured the subject property. According to the condominium statute, his unit should only be measured according to inside dimensions, which equates to 2,065 square feet. The subject property size has not been altered subsequent to its original construction.
8. Upon questioning by the Board, Mr. Lerner testified that he was unwilling to allow the assessor's staff to measure the subject property, as he did not believe they were qualified to do so.

9. Respondent assigned an actual value of \$1,686,090.00 to the subject property for tax year 1998.

**CONCLUSIONS:**

1. The Board was unwilling to accept any further change to the subject property square footage until such time as Petitioner allows the assessor's personnel to verify the property size.

2. After much discussion by the Board with Petitioner, Mr. Lerner agreed to allow the assessor's personnel access to measure the subject property.

3. The Board recessed the hearing until such time as the Petitioner and Respondent were able to mutually agree upon an inspection date. Once the inspection was completed, the Board agreed to set a hearing date to complete the hearing.

4. As of May 6, 2002, the Board has not been notified of an inspection date or the completion of the inspection.

**ORDER:**

1. The Board will allow an additional 30 days from the date of this order for Petitioner and Respondent to schedule and complete an inspection of the subject property and to notify the Board of either a stipulation agreement or the need for further hearing, in the case of a continuing dispute regarding the subject property square footage.

2. If the inspection is not completed within the 30-day period, the Board will accept the size of the subject property as 2,120 square feet and will issue an order for a reduction in the 1998 value to \$1,568,800.00, the same square footage and value determined in the Board's Docket Number 35429 for tax year 1999.

**DATED and MAILED** this 8<sup>th</sup> day of May, 2002.

**BOARD OF ASSESSMENT APPEALS**

This decision was put on the record

MAY 07 2002

Debra A. Baumbach  
Debra A. Baumbach

Karen E. Hart  
Karen E. Hart

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



**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**  
1313 Sherman Street, Room 315  
Denver, Colorado 80203

Petitioner:

**MOSES LERNER,**

v.

Respondent:

**EAGLE COUNTY BOARD OF EQUALIZATION.**

Attorney or Party Without Attorney for the Petitioner:

Name: Moses Lerner  
Address: 9879 Santa Monica Blvd.  
Beverly Hills, CA 90212  
Phone Number: (310) 553-0316  
E-mail:  
Attorney Registration No.:

**Docket Number: 38033**

**ORDER ON STIPULATION**

**THE PARTIES TO THIS ACTION** entered into a Stipulation, which has been approved by the Board of Assessment Appeals. A copy of the Stipulation is attached and incorporated as a part of this decision.

**FINDINGS OF FACT AND CONCLUSIONS:**

1. Subject property is described as follows:

**County Schedule No.: R039921**

**Category: Abatement**

**Property Type: Residential**

2. Petitioner is protesting the 1998 actual value of the subject property.

3. The parties agreed that the 1998 actual value of the subject property should be reduced to:

Land	\$	0.00
Improvements		<u>\$1,547,620.00</u>
Total		\$1,547,620.00

4. The Board concurs with the Stipulation.

**ORDER:**

Respondent is ordered to reduce the 1998 actual value of the subject property, as set forth above.

The Eagle County Assessor is directed to change her records accordingly.

**DATED/MAILED** this 5<sup>th</sup> day of June, 2002.

This decision was put on the record

June 4, 2002

**BOARD OF ASSESSMENT APPEALS**

Karen E. Hart  
Karen E. Hart

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

Debra A. Baumbach  
Debra A. Baumbach

Penny S. Bunnell  
Penny S. Bunnell

Docket Number 38033



**BOARD OF ASSESSMENT APPEALS  
STATE OF COLORADO**

County Schedule No. R039921  
Docket No. 38033

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**STIPULATION (As To Tax Year 1998 Actual Value)**

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**MOSES LERNER,**

**Petitioner,**

vs.

**EAGLE COUNTY BOARD OF EQUALIZATION.**

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STATE OF COLORADO  
BOARD OF ASSESSMENT APPEALS

The Petitioner and the Eagle County Board of Equalization ("the Board") hereby enter into this Stipulation regarding the tax year 1998 valuation of the subject property.

The Petitioner and the Board agree and stipulate as follows:

1. The property subject to this Stipulation is described as:

Parcel # 2101 082 58 030  
Schedule # R039921

2. The subject property is classified as Residential.

3. The County Assessor assigned the following adjusted actual value to the subject property for tax year 1998:

\$1,686,090.00

4. After further review and negotiation, Petitioner and Board agree to the tax year 1998 actual value for the subject property as follows:

\$ 1,547,620.00

5. Brief narrative as to why the reduction was made:

Correction of unit size to 2,072 square feet, from the original 2,244 square feet that was calculated in error.

DATED this 30<sup>th</sup> day of May, 2002.

EAGLE COUNTY ATTORNEY

By: R. Thomas Moorhead

R. Thomas Moorhead, No.22445

P. O. Box 850

Eagle, CO 81631

(970) 328-8685

Petitioner: Moses Lerner

By: Moses Lerner 5/24/02

Moses Lerner

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Beverly Hills, CA 80212