

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DANIEL C. SILVA AND LARRY MATTISON,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53297</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 17, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Daniel C. Silva appeared pro se for Petitioners. Respondent was represented by Martin E. McKinney, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**8060 West 9th Avenue, Unit 106, Lakewood, Colorado
(Jefferson County Schedule No. 173306)**

The subject is an 882 square foot garden-level condominium unit built in 1970 in Oxford Downs. The project has approximately 70 units, all two bedrooms with 882 square feet. Garden-level units are one-level floor plans, while upper units are two-story floor plans with an additional main floor half bath.

Respondent assigned an actual value of \$65,000.00 for tax year 2009. Petitioners are requesting a value of \$39,000.00.

Mr. Silva testified that the subject unit, tenant occupied, was in fair to poor condition and in need of approximately \$10,000.00 worth of repairs.

Mr. Silva, through testimony, presented three comparable sales, all foreclosures selling for \$35,000.00, \$39,000.00, and \$40,000.00 within the base period. All were garden-level floor plans.

No adjustments were made because none were considered necessary. He concluded to a value of \$39,000.00.

Respondent presented an indicated value of \$68,500.00 for the subject property based on the market approach. The witness presented four comparable sales ranging in sales price from \$60,000.00 to \$86,500.00. Sale 1 was a garden-level unit like the subject and Sales 2 through 4 were two-story units. After adjustments were made for time, sales concessions and personal property, main floor half baths, and fireplaces, the sales ranged from \$49,642.00 to \$81,000.00. All were arm's-length transactions occurring within a 24-month base period.

Respondent declined use of foreclosure sales because they were not arm's-length transactions. Petitioners argued that foreclosures were prevalent during the base period and should be considered.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board places no reliance on Petitioner's sales, all foreclosures. The difference between foreclosures and arm's-length transactions is considered to be physical condition and distress.

In review of Respondent's sales, the Board dismisses Sale 3 due to its considerably higher sales price, likely reflecting condition, updating, or remodeling.

The Board notes a difference between the adjusted sale prices of Respondent's Sales 1 and 2, suggesting a market reaction to garden-level (below-grade living space) versus a two-story unit. Therefore, of Respondent's four sales, Sale 1 is considered most similar to the subject.

The Board notes that Respondent's declining adjustments for time were based on condominium sales within the county. However, the Board is convinced that values increased over time within the project. Sale 4 sold twenty months after Sale 2 and both are two-story units with few adjustments. After deducting seller concessions and personal property, their prices are \$64,630.00 and \$69,000.00, respectively, indicating a value increase of \$4,370.00 (\$4,500.00 rounded) for the related twenty-month period. A time-adjusted sale price for Sale 1 would be \$56,742.00 or \$57,000.00 rounded: \$60,000.00 plus a time adjustment of \$4,500.00 (same twenty-month period) minus seller concessions and personal property of \$7,758.00.

The Board is also convinced that the subject unit was in less than average condition during the base period and, absent contradictory data, assumes Sale 1 to be in average or superior condition. The Board finds a negative condition adjustment to Sale 1 of \$10,000.00 (Petitioner's repair estimate) to be defensible.

The Board concludes to an adjusted value for Sale 1 of \$47,000.00 rounded.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$47,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$47,000.00.

The Jefferson County Assessor is directed to change his/her records accordingly.

APPEAL:

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-five 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-five 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 13th day of October 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

[Signature]

Amy Bruins

