

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>ADOLP G. AND JO B. MUTZE</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioners:</p> <p>Name: Adolp G. and Jo B. Mutze Address: 9669 Covey Court Northglenn, Colorado 80260 Phone Number: (303) 429-6395</p>	<p>Docket Number: 42014</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 6, 2004, Karen E. Hart, Steffen A. Brown, and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Jennifer Wascak Leslie, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**9669 Covey Court, Northglenn, Colorado 80260
(Adams County Schedule Number 0171915320017)**

Petitioners are protesting the 2003 actual value of the subject property, a 1964 frame and brick bi-level with 864 square feet on each level that includes three bedrooms and two baths. There is a one-car attached garage.

ISSUES:

Petitioners:

Petitioners contend that the subject property was incorrectly valued for tax year 2003, that mistakes were made in the Assessor's appraisal and that structural damage was not considered.

Respondent:

Respondent contends that the subject property has been correctly valued using the market approach.

FINDINGS OF FACT:

1. Mr. Mutze presented the appeal on Petitioners' behalf. He has owned and occupied the house for 40 years.
2. Mr. Mutze did not present any comparable sales.
3. Mr. Mutze testified that the builder originally installed 24-foot caissons to address the house's construction over a swamp and that additional structural damage is the result of an earthquake and improper storm drainage.
4. A ten-foot by eight-foot sinkhole, the result of water damage and improper construction, exists in the garage. The garage is now unstable, in danger of collapse, and is unsafe for car storage.
5. Mr. Mutze did not submit a report from a qualified structural engineer addressing settlement and water issues.
6. Mr. Mutze testified that the floors slope, that the interior walls and floors are cracked, and that lower-level ceiling heights range from 72 to 90 inches. He mitigated a mold problem himself, but evidence of mold is visible on unfinished walls.
7. Mr. Mutze testified that four different contractors failed to correct the structural problems, caused additional damage, and left with work unfinished.
8. Mr. Mutze, in referring to Respondent's appraisal dated January 6, 2004, testified that the following data is incorrect: the subject's room count; comparable Sale 3 has a two-car rather than a one-car garage, the subject's size should read 844 square feet rather than 864 square feet, and the comparable sale data does not indicate cosmetic changes, physical condition or additions.

9. Mr. Mutze questioned conflicting data between the appraisal prepared by Respondent for the County Board of Equalization (CBOE) hearing and the appraisal submitted by Respondent for the Board of Assessment Appeals hearing. However, because the CBOE appraisal was not submitted as evidence, the Board could not consider it for the purpose of this hearing.

10. Petitioners are requesting a 2003 actual value of \$79,300.00 for the subject property.

11. Respondent's witness, Mr. Marv Seuer, a Registered Appraiser with the Adams County Assessor's Office, presented an indicated value of \$114,913.00 for the subject property based on the market approach.

12. Mr. Seuer presented three comparable sales ranging in price from \$169,800.00 to \$179,500.00 and in size from 864 to 875 square feet. The adjusted sales price range was \$163,847.00 to \$172,402.00. A \$60,000.00 adjustment was made for structural repairs, maintenance, grading and landscaping, resulting in an adjusted range from \$103,847.00 to \$112,402.00.

13. Mr. Seuer testified that he inspected the subject property three or four times over the years, the last inspection being approximately two years ago. At that time, he observed deferred maintenance, such as kitchen cabinets without doors, older appliances, a non-working lower-level bathroom, and a need for painting and general updating. He saw no evidence of a structurally unsound house. At the time of inspection, he commented on the hole in the garage floor that appeared to have been dug and over which an I-beam had been constructed, but Mr. Seuer reported that Mr. Mutze said it was of no concern for Mr. Seuer.

14. In cross-examination regarding room count and price per square foot, Mr. Seuer testified that "total area" (864 square feet) in the appraisal reflected the upper level, with the lower level (864 square feet) reported as "basement." The room count included both levels. The price per square foot was calculated by dividing the sales price by the upper level square footage.

15. In cross-examination, Mr. Seuer admitted that comparable Sale 3 has a two-car garage and agreed to make the appropriate negative adjustment of \$4,000.00, with the final adjusted price being \$108,402.00. Mr. Seuer also testified that a second appraisal was prepared for this hearing to include more recent sales during the valuation period. He further testified that he did not have access to the interiors of the comparable sales and that he had no knowledge of cosmetic changes or additions.

16. Respondent assigned an actual value of \$114,910.00 to the subject property for tax year 2003.

CONCLUSIONS:

1. Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2003.

2. Insufficient evidence, specifically a structural engineer's report, was presented to determine a cost to cure the purported subject property's structural damage, though Respondent's witness did not dispute that issues existed. Though there was conflicting evidence as to the cause of the garage sinkhole and whether the hole was hand dug or the result of water or structural damage, it was not disputed that a sinkhole exists that renders the garage unusable.

3. Lacking any other evidence, the Board considers Respondent's \$60,000.00 adjustment in the market analysis to be sufficient for any necessary repairs, deferred maintenance, landscaping expenses, and the lack of a usable garage at the subject property.

4. The Board believes that the Respondent has adequately addressed the issues of room count and size and that these discrepancies have no effect on value.

5. The Board acknowledges the Assessor's corrected \$4,000.00 adjustment for the second car bay in comparable Sale 3, resulting in an adjusted value of \$108,402.00, which includes the \$60,000.00 repair/maintenance adjustment. This change results in a range of adjusted values from \$103,847.00 to \$108,402.00. The Board determined that the subject property value should be reduced to \$105,000.00, the mid-point of the value range.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$105,000.00.

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

APPEAL:

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

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 24th day of January, 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Steffen A Brown

Steffen A. Brown

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

JAN 22 2004

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

Penny S. Lowenthal
Penny S. Lowenthal

