

Ed C. Tomlinson

OVERTAXED!

**Your Guide to Honest
Property Tax Reductions
by Understanding and
Effectively Protesting
Your Assessment**

Residential, Commercial & Industrial

**Foreword by Ed Bosier
Retired Arapahoe County Assessor**

**May 2011 Colorado Edition
Updating the 1991 Best Selling Book**

**Diamond Publications
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DEDICATION

To the Tomlinson Family:

TODAY
YESTERDAY
TOMORROW

ACKNOWLEDGEMENTS

Many people and organizations contributed their thought, time, and talent to the original book.

I thank the dozens of radio stations, magazines, and newspapers around the state, whose coverage has served to help the people of Colorado and made the earlier edition a Tattered Cover best selling book for six weeks.

On the legislative front, the Colorado State Legislative Council reprinted and distributed my prior guide and invited me to address the Senate committee on property tax assessments where I was able to make recommendations for improving the property tax system. Legislators and others helped me by sponsoring a bill to improve the system.

Finally, I acknowledge the thousands of people who have sought help from me. Their appreciation and feedback has let me know that one person can make a difference. Thank you.

FOREWORD

Property tax in Colorado represents an assessment of the value of your property expressed as a market value. The tax is an important component of local government service delivery. Property tax is assessed by most local governments and is used to fund many of the services each of us expects. These services include K thru 12 educations, law enforcement, water and sewer service, fire protection, and others. The tax is a locally based tax and the State of Colorado does not collect any property tax for state uses. When you are asked to pay this tax you are being asked to pay your share of these services. Your "fair share" is measured by the value assigned to your property. If the value of your property as assigned by the Assessor is not correct, then you are not paying your fair share. The responsibility falls on us individually to make sure that the tax base is representative of the correct value of property. This becomes more important for the non residential owners who are constitutionally required to pay 55% of the property tax, and also pay at a higher rate.

Ed Tomlinson has provided an invaluable resource in your determination of an accurate value on your property. If you follow the steps outlined thoroughly in this book, you can be sure you are carrying out your civil responsibility of insuring the tax value of your property is correct under the rules outlined.

The county assessors all have professional appraisal staff that set the value on your property every other year. In order to accomplish this, the staff uses mass appraisal techniques that allow for appraisal on a large scale. This is an efficient method of valuing lots of property in a relatively short time, and does establish acceptable values for most property. This book gives you the tools to determine if you own one of the properties that are not properly valued using these mass appraisal techniques, and tells you what to do if you determine that your property is not correctly valued. During my years as County Assessor, I heard many stories from folks like you relating that they did not feel comfortable protesting the value of their property because they did not have the knowledge they felt was required to be successful. As some say, "this is not rocket science". If you follow the steps outlined in this book you can be successful.

All that is required of you is a little time investment. Read this book and then use it as a guide in determining your value. If you decide that your value is high, protest to the assessor and do it with confidence.

Ed Bosier Retired Arapahoe County Assessor

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PREFACE

Thank you for your interest in my work in the Colorado property tax assessment system. I have written this book to help you evaluate your own tax assessment position.

Colorado property owners, who protested, resulted in hundreds of millions of dollars in proper appraisal reductions and honest refunds of 53 million in back taxes. Fully understanding how the state's property tax assessment system works will give you the best opportunity to intelligently review your property's valuation for fairness and accuracy. Hundreds of thousands of residential, commercial, industrial and state assessed property owners throughout the state have reduced their taxes substantially by identifying errors in the valuations and appraisals made by the county assessors.

I commend you on your decision to take responsibility for your property taxes. Since county assessors update property appraisals every other year, it is in your best interest to find out what your role is in the tax assessment system. Reviewing your tax position is not difficult or expensive, but it does require some time and patience.

If you own residential property in the Arvada area, and need help, I will help you for free. All I ask is that if you ever decide to sell your property that you consider interviewing me for the position or consider sending me a real estate referral.

If you own commercial, industrial, state assessed properties or are a tax attorney, simply charged with the responsibility of property tax management, or have state assessed property, the original book has helped others drop their taxes by hundreds of thousands of dollars. If your property value is appraised over \$2 million, I have teamed up with a former assessor with 18 years experience and a former commercial manager of a county assessor office and others to protest your taxes for you. These credentials, plus a 95% success rate, are unsurpassed in Colorado. The only fee is 25% of what we save you per year.

INTRODUCTION

This free book is a gift that is designed for busy people who want to understand and learn how to review and lower property tax assessments efficiently and effectively on residential, small commercial and industrial properties. This includes property owners, Realtors, property managers, attorneys, appraisers, legislators and those corporate employees trusted to know these things. The book is meant to be read from beginning to end. Once you have read it entirely, you can easily refer to specific sections.

Over \$6.8 billion is collected in property taxes each year in Colorado, the largest collection of taxes in the state outside of federal income taxes. The property tax system includes over \$600 billion of real estate value on 2.5 million individual properties. In such a large system, mistakes are bound to be made-mistakes which can cost you a bundle in taxes.

But these mistakes won't correct themselves. It's simple: if you don't file a protest, and your assessment is inaccurate, you will end up paying more than you should. The burden of proof is not on you, but the responsibility is yours.

The problem is that 2,350,000 property owners just look at their property tax bills each year and pay them, assuming they can't do much about them. On the other hand, 151,000 owners of houses, commercial, industrial vacant land, and apartment buildings routinely fight to lower their property tax assessments. The average property owner just pays the bill and lets the issue pass.

But most of us really can't afford to ignore our property tax bills. Look at reviewing your tax position and protesting as part of maintaining your home or business. If you are like most people, real estate is the biggest investment in your life. You take pride in your property and don't hesitate to repair your property when essential maintenance is required. That's the way you should perceive your property tax assessment-you have to be ready to step in to repair your assessment when a correction is required.

You can save anywhere from a few dollars to hundreds of thousands of dollars if you are successful in appealing your assessment. Whether you are successful or not depends on how well you prepare and present your case.

Property taxes in Colorado are determined in large part through an appraisal system administered by county assessors. To contact your assessor go to http://dola.colorado.gov/dpt/state_and_county_contacts/docs/ASSR2-2010.pdf

This book will prepare you, the property owner, for any situation that may arise while working with assessors.

The book can be used very effectively for all residential and small commercial or industrial properties. Residential properties are defined by assessors as houses, mobile homes, duplexes, and *apartment buildings*.

Owners of large commercial, state assessed properties, vacant land or personal property may wish to employ the services of tax agents for assistance. Commercial tax agents generally retain a percentage of any tax savings obtained as their fee. For information on specific companies please contact me to help you for a 25% success fee or for a referral.

If you need information on agricultural properties, large land holdings, or personal property, contact me or the State Division of Property Taxation at (303) 866-2371. You can purchase a copy of the rules and regulations for these types of properties from the Division for \$25 each. They include a 771 page Administrative and Assessment Procedures Manual, a 548 page Land Manual and a 458 page Personal Property Manual. Each includes a years worth of monthly updates or go on line to review it for free at http://dola.colorado.gov/dpt/publications/arl_index.htm

Chapter 1

HOW YOUR PROPERTY TAXES ARE DETERMINED

Property taxes are based on a combination of the assessor's appraisal of your property, the assessment rate, and your local area's mill levies. Assessment rates, which I will explain later in this chapter, are set by law. Mill levies are determined by your local taxing authorities. The only real variable in the equation is the appraisal.

The Appraisal

The appraisal is the dollar value assigned to your property by your county's assessor. It is *not* your property's current fair market value. Take care never to rely on the assessor's appraisal in any buying or selling decisions. The assessor has probably never seen your property (nor any comparable properties). Beyond that, assessors' information about the property can be subject to error.

Case in point: A couple sold their home to their son and daughter-in-law at a price based on the assessor's value of the home. Because the assessment was flawed, the son and daughter-in-law paid \$30,000 more than the property was worth. Both parties acted in good faith, but relied on an assessor's appraisal.

It is also important for you to understand that the appraisal the assessor makes on your property is, by definition, different than the appraisals done by insurance companies, banks, or Realtors. *Again, the assessor's value is not used for any purpose other than property tax determination.*

For example, the insurance appraisal which estimates how much it would take to replace your property in event of fire is almost always much higher than what a buyer would pay for your property. Likewise, a bank's appraisal for a second mortgage or equity loan is intended for collateral purposes and is not meant to determine what your property is worth to a buyer. It, too, would generally be higher than what a buyer would pay for your property.

Since assessors have control over the appraisal, and only the appraisal, any review or protest of your tax position must focus on the appraisal, not your actual taxes. Your property's appraisal is the only factor in the tax determination process over which you have direct control. The rest of this book, therefore, will concentrate on the accuracy of the assessor's appraisal of your property.

"Appraisal" is used interchangeably with "valuation," "total value," "actual value," and, most often, with "total actual value."

Three Approaches to Determining Appraisals

To determine your property's appraisal, assessors may use one or more of the following approaches.

1. Market approach

The market approach involves identifying comparable sales for your property. It is almost always the best approach for homeowners and assessors to use in appraising residential properties. It is based on two factors:

- what the assessor knows about your property, as recorded on a property data record file at his/her office
- adjusted sales prices of properties similar to yours, from transactions occurring in the base period (which will be explained in Chapter 7).

2. Cost approach

This approach involves determining the exact worth of every piece of a building (as listed on the appraisal card): today's cost (replacement cost of the building, including land improvements such as parking lots and concrete walkways) less depreciation. Land value is then determined and added to the cost.

While appropriate under certain limited circumstances (such as for brand-new structures), it is not as accurate as the market approach. One reason for this is the difficulty in determining the exact amount of depreciation which has occurred. This approach usually results in higher appraisals than the market and income approaches, and it is impossible to prove or disprove.

Several services provide cost information to assessors to help them determine today's costs. The most commonly used of these is the Marshall & Swift set of manuals (available in most libraries).

<http://www.marshallswift.com/c-2-commercial-products.aspx>

Most assessors start with the information provided by Marshall & Swift and then alter it to suit their own purposes through computer-assisted appraisal programs. Once altered, it is difficult to identify the factors used in the calculation.

Once current costs have been determined, depreciation is calculated. Depreciation adjustments can be classified into three categories:

a. *physical deterioration*-the natural wearing out of the structure, creating a reduced value. Physical deterioration can be *curable* or *incurable*.

Curable deterioration is deterioration which can be fixed, and is economically advantageous to fix. Examples include exterior repainting and reroofing. Incurable deterioration is deterioration for which the costs of repair, maintenance, or modernization outweigh the advantages of making the repair.

b. *functional obsolescence*-awkward floor plans (especially after additions) which make properties less valuable. Costs to be incurred to correct such deficiencies are included as additional depreciation. Functional obsolescence may also be curable or incurable.

c. *economic obsolescence*-caused by a number of factors under which you have no control. This type of depreciation applies primarily to apartments, commercial and industrial property. Examples include deteriorating economic conditions in the neighborhood, location of the property on a once-busy, now-quiet street, and cases in which rents can not cover the operating expenses of a building.

Assessors implement a "neighborhood adjustment" (NHAJ) factor in the cost and market approaches. The adjustment is a monetary amount which some assessors add to or subtract from the property's appraisal to bring the two approaches' (cost and market) figures in line with each other. Its purpose is to adjust the difference in value of one similar neighborhood to another.

3. Income Approach

The income approach involves proving a property's valuation through its net income and expenses. While this approach is not allowed for use on residential properties, it often is the commercial property owners' best chance to correct an appraisal. It is the most accurate method to use. Property value is equal to:

$$\frac{\text{(actual gross income minus operating expenses)}}{\text{capitalization rate}}$$

Expenses exclude goodwill, principal reduction, and interest. The property is appraised by the assessor as though it was free and clear. The capitalization, or "cap" rate, is used to determine the rate of return on cash invested. For example, if you paid \$100,000 cash for a property and wanted a \$10,000 (10 percent) annual return, your cap rate would be 10. The cap rate varies according to the risk you are taking.

To help determine the correct rate, contact one of the following:

- Your assessor. Make sure you know how she/he arrived at the rate.
- A commercial real estate appraiser
- A commercial Realtor
- The Building Owners & Managers Association International (B.O.M.A.) (303) 383-4870 in Denver or for southern Colorado at (719) 473-8200

Assessment

The assessment amount is a percentage of the assessor's appraisal on your property. It is determined by multiplying the assessment rate, set by state law, by the assessor's appraisal value of your property.

The residential assessment rate is at 7.96 percent. The rate for commercial and industrial property (as well as vacant land) is firm at 29 percent.

Suppose an assessor appraises a residential property at \$100,000, the assessment amount of the property would be \$7,960 (\$100,000 x .796). If a commercial property is appraised at \$100,000, its assessment would be \$29,000 (\$100,000 x .29).

Property Tax Calculation

Once the assessment is calculated, it is multiplied by the mill levy to determine your actual tax bill. The taxing districts in which your property is located determine the number of taxing entities that go into your mill levy. There are about 2,000 different districts in the state. You may have 6-12 districts: one for police, one for fire, one for schools, etc.

Using the above example, let's say that the total mill levy for all your taxing districts is 90. Since 1 mill is equal to 1/10 of 1 cent (.001), that is \$.090. The taxes owed, therefore, on the \$100,000 residential property would be \$7,960 x .090, or \$716.40. The taxes owed on the \$100,000 commercial property would be \$29,000 x .090, or \$2,610.

As you can see, owners of commercial/industrial property and vacant land are paying over four times the tax a similarly valued residential property owner is paying.

Most assessors also have a brochure explaining the assessment system. Ask for it. For the Residential Brochure go to

<http://dola.colorado.gov/dpt/publications/docs/brochures/Understanding%20Property%20Taxes%202010.pdf>

For the Commercial and Industrial Brochure go to

<http://dola.colorado.gov/dpt/publications/docs/brochures/Business%20and%20Industry%202010.pdf>

Reappraisal

Assessors *assess* all properties (multiply the appraisal value by the assessment rate) every January 1, and *reappraise* properties (revalue property values) every two years.

This year's reappraisal, the May 2011 reappraisal, carries an official appraisal date of June 30, 2010. Appraisals are usually based on adjusted sale prices of properties sold between January 1, 2010 and June 30, 2010 (in most counties and circumstances), time-trended to June 30, 2010 prices. The tax bill you receive in January 2012 will be based on the May 2011 reappraisal value, the assessment rate, the condition of your property on January 1, 2011 and current mill levies. The tax bill you receive in January 2011 was based on the May 2009 reappraisal value with a June 30, 2008 appraisal date.

Chapter 2

WHY YOUR PROPERTY TAX BILL MAY BE INCORRECT

Mass Appraisal Method

Property values are determined by a Mass Appraisal Method used by all county assessors in Colorado. Using a computerized process, assessors appraise over two and a half million properties a year. While the system results in fairly accurate overall results, assessors recognize that it also results in many properties being appraised higher and/or lower than they should be.

That is exactly why the protest system was developed: to correct individual property errors.

For residential property, 36 seconds is the time allocated to determine your value during an office review or three minutes for a drive by appraisal.

Commercial properties are allocated 36 seconds to 15 minutes and industrial properties are at 36 seconds to 60 minutes for an office appraisal.

Assessors try to drive by all properties once every ten years and make a physical inspection once every 100 years.

Chapter 3

Exemptions

Review these to see if you qualify.

Colorado Senior Citizen and Veteran *Property Tax Deferral*

The Property Tax Deferral program helps military personnel and seniors, many of whom live on a fixed income, continue to afford living in their home by deferring the payment (over \$5 million) of their property taxes.

The State Treasurer's office makes tax payments directly to the county on behalf of the participant for the tax amount due. The loan is logged as a lien against the participant's property that does not have to be remitted until the participant no longer qualifies to defer their property taxes.

<http://www.colorado.gov/cs/Satellite/Treasury/TR/1190277266190>

Colorado *Property Tax Rebate Program*

This program is sponsored by the State of Colorado and allows certain Colorado residents to qualify for a credit or refund of up to 100% of the general property tax paid by them on owner-occupied residences.

If you are a, full year, Colorado resident at least 65 years old, or a surviving spouse at least 58 years old or disabled for all of 2010, regardless of age; and you are a single person with income less than \$12,000, or a married couple with income of less than \$15,700, You may qualify for a property tax or rent rebate.

<http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251677264466&ssbinary=true> call the State of Colorado (303) 238 7378 press 2 then press 1, then press 3.

City Tax Credit

Some cities also offer tax relief. Residents need to contact their city's Clerk to find out if their city has such a program.

The Colorado Senior Citizen Exemption

This was removed in 2008 by your State Senators and signed by Governor Ritter for tax years 2009 through 2011. Under current law, it is scheduled to return for tax year 2012, payable in 2013. The state pays the county, in behalf of the property owner's home, 50% of the first \$200,000 in property value taxes.

Although funding for the senior citizen exemption is postponed, the program itself remains in place. Assessors must continue to process new applications and administer the exemption program. The deadline for filing is postmarked by July 15th. Late applications may be accepted until September 15th if the applicant can show good cause for missing the July 15th deadline.

The assessor has sole discretion on what constitutes good cause.

- a) The applicant was unaware or forgot about the July 15 deadline. The applicant does not need to show that his or her failure to file resulted from bad information or a lack of notice by the assessor's office.
- b) The applicant claims to have mailed or delivered an application on or before July 15, even though the assessor has no record of receiving it. The applicant does not need to prove that he or she submitted a timely application.

All real property leased or rented

All real property leased or rented for at least a year by the state of Colorado; a political subdivision (define as a tax collecting entity), or a state-supported institution of higher education is subject to an exemption.

[http://dola.colorado.gov/dpt/publications/docs/2010_manuals/Full%20Volume 10-2010.pdf](http://dola.colorado.gov/dpt/publications/docs/2010_manuals/Full%20Volume%2010-2010.pdf) Pages 3.60 to 3.62

City and County of Denver Elderly and Disabled Program

Provides a partial refund of Real Estate Taxes or the equivalent in rent paid by full year Denver residents with limited incomes who are either over 65 years of age or are totally disabled. Income for the calendar year must not exceed \$14,600 for single persons or \$21,100 for married couples. Payments are based on income received. The minimum payment is \$186. Please contact Taxpayer Service at (720) 913-9300 or Special Accounts at (720) 913-9500 for forms. <http://www.denvergov.org/SpecialPrograms2007TaxYear/tabid/424583/Default.aspx>

Religious Purposes

http://dola.colorado.gov/dpt/publications/docs/2010_manuals/Full%20Volume 10-2010.pdf page 10.19 some fees are required.

Property Tax Work Off Programs

Taxing entities such as a county, city and county, city, town, school district, or special district may implement a property tax work-off program. The program allows taxpayers 60 years of age or older or with a disability to work for minimum wage of \$7.36 in lieu of paying all or a portion of the property tax due to the entity. A person with a disability means any individual with a physical impairment, a developmental disability...or mental retardation that substantially limits one or more major life activities.

Taxpayers with a disability who apply to participate in a property tax work-off program must include with their application a signed and dated letter from a Colorado licensed healthcare professional verifying they have a disability. Any taxing entity that establishes a property tax work-off program has the authority to further define the term "person with a disability" for purposes of determining eligibility for the property tax work-off program. The definition may restrict the class of individuals who are eligible to participate in the property tax work-off program.

Each participating entity must establish procedures for its program and must make information available regarding the program to the taxpayers living within the boundaries of the taxing entity.

To qualify for the program, you must meet all of the following eligibility requirements:

1. You must be 60 years of age or older.
2. The property must be your "homestead."
3. The property may not be income producing.

Few entities may be participating. Denver Public Schools is doing it [http://cpc.dpsk12.org/stories/storyReader\\$47](http://cpc.dpsk12.org/stories/storyReader$47) and Douglas County is http://www.douglas.co.us/humanresources/Tax_Work-Off_Program.html

If you are interested in the program, you should contact the individual entity for specific information. A list of names and addresses for each entity is suppose to be available at your local county Assessor's office

http://dola.colorado.gov/dpt/state_and_county_contacts/docs/ASSR2-2010.pdf but I found that the Treasurers office or your school district might

be your best bet. County Treasurers offices

http://dola.colorado.gov/dpt/state_and_county_contacts/docs/TREA2009.pdf

Strictly Charitable Purposes

http://dola.colorado.gov/dpt/publications/docs/2010_manuals/Full%20Volume_10-2010.pdf pages 10.20 to 10.23 some fees required.

Personal property valued below \$5,500

Disabled Veterans

Deadline is July 1st or September 1st with good cause. The Division of Veterans Affairs has sole discretion on what good cause is.

<http://www.dmva.state.co.us/pages/43/data/004346407E8523FC.pdf>

There are three conditions

1. The veteran sustained a service-connected disability while serving on active duty in the Armed Forces of the United States. This includes members of the National Guard and Reserves who sustained their injury during a period in which they were called to active duty.
2. The veteran was honorably discharged.
3. The United States Department of Veterans Affairs has rated the veteran's service-connected disability as one hundred percent permanent and total.

Soldiers' and Sailors Civil Relief Act

Prohibits the taxation of personal property, except that used in a trade or business, owned by United State military personnel who are not legal residents of the state, and who are absent from their home states and stationed in another state solely by reason of military orders. The exemption is applicable to manufactured homes that are owned by such military personnel and that are not permanently affixed to the land on which they are located.

Damaged Property

The property owner has the responsibility of reporting the real property as damaged or destroyed and the date of the occurrence. If it's not reported the assessor is not required to prorate the value. If it's destroyed down to the foundation and no effort to repair is made within one year, the assessor will reassess the property as vacant land.

Partially Exempt

The types of residential facilities which are included are "elderly or disabled low-income residential facilities," "family service facilities" occupied by low-income homeless or abused persons, housing for low-income elderly persons, housing for low-income disabled persons, and housing for persons receiving care or treatment from a licensed health care facility or institution for physical or mental disabilities.

Public Property

United States Government Property, American National Red Cross, Federal District Court, IRS, and the United States Postal Service.

Property repossessed by federal agents include the Housing and Urban Development (HUD), Veterans Affairs (VA), Small Business Administration (SBA), Farm Credit Services (F/K/A) Farm Credit Bank and Federal Land Bank), Federal Deposit Insurance Corporation (FDIC), Department of Agriculture, Commodity Credit Corporation (CCC), Department of Commerce, Economic Development Administration, (EDA), and the Resolution Trust Corporation (RTC).

Native American Property; Privately Owned Property within a Federal Enclave; State, County, City, Political Subdivisions; School Districts; and Special Districts.

Charter Schools, State Board of Land Commissioners, State Division of Wildlife, Parks and Outdoor Recreation, funds provided by the Great Outdoors Colorado Trust Fund Board, State Historical Society, Public Airport Authority, Title 32 Special Districts, Power Authorities, Soil Conservation Districts, Water Authorities, Downtown Development Authorities, Housing Authorities-City-County and Multi-Jurisdictional, Urban Renewal Authorities, Colorado Housing Finance Authority (CHAFA), Fire and Police Pension Associations, State and County Courts, Council of Governments, Colorado Uninsurable Health Insurance Plan, Law Enforcement Authorities, and the Colorado Beef Council Authority.

Private Property

Agricultural Equipment, Agricultural and Livestock Products, Cemeteries, Cemetery Districts, Cemetery Companies, County Fair Association, Credit Unions, Household Furnishings, Horticultural Improvement, Improvement on otherwise exempt properties, Intangible Personal Property, Inventories of Merchandise, Materials and Supplies, Irrigation Improvements, Livestock, Motor Vehicles and Aircraft, Personal Effects, Works of Art, Municipality, County, School District, State of Colorado Division of Employment, and the State of Colorado Department of Transportation

Miscellaneous

Property changing tax status, Public Roads and Highways, Treaties, and Private Schools. Some fees required for private schools.

Chapter 4

REVIEWING YOUR APPRAISAL CARD DATA

The Appraisal Card Data

Data about your property is recorded on the appraisal data at your county assessor's office. Assessors base their appraisals on this data, which they call "inventory." If it is wrong or incomplete, your appraisal (and resulting tax bill) will be incorrect. It is your responsibility to review your property's appraisal information for accuracy.

When to Review Your Property Appraisal Card Data

You can review the property appraisal card data any time of the year. In some cases your card may only be accessed electronically. Assessors are only *required* to make reductions in valuation resulting from appraisal card errors through June 1. Reductions noted after that date, and up until early December (when assessors turn the assessment data over to the county treasurer for billing purposes), might be reflected in next January's tax bill; it is at the assessor's option. If you do review your card and they make corrections, you may need to review it again in May of 2013, when the next reappraisal is done, because corrections in some counties may not be recorded permanently. If changes are made to your property that result in a value change, the assessor is required to send you this notice of this change and you can protest this as well.

How to Obtain a Copy of Your Appraisal Card Data

Contact your county assessor's office by phone, mail, or in person, and request a *complete* copy of your appraisal data. Many assessors make this information available on line either partially or completely.

Reviewing Your Property Appraisal Card Data for Accuracy

The more thorough you are in reviewing your appraisal data, the more comfortable you will be in understanding the assessment system. Take time to understand it fully.

Accurate data-You'll find information on size, style, and condition of your property, number of bedrooms and baths, lot size, square footage, etc. When verifying square footage, be sure to measure around the exterior of the building. Measure a basement or garage separately. Review your survey, and if you need assistance call a neighbor, an appraiser, or a local Realtor.

Commercial property owners can collect additional data, such as warehouse ceiling heights, etc. Apartment building owners should also check the property appraisal card data for the correct number of apartments in the building, number of bedrooms in each apartment, etc.

Proper notation of additions and improvements to the property-

Assessors may have added the value of an addition to the appraisal data, but then not have deleted the value of the old, torn-down structure it replaced. For instance, a former owner may have converted an attached one-car garage into a family room. While the assessor may have noted the room addition on the appraisal, he/she may not have removed the garage's value from the appraisal. Some assessors may even add a finished basement to your property appraisal card automatically after a property reaches 10 years of age, because they realize many property owners finish their basements without pulling a building permit.

Existing property condition-Make sure that the proper condition of all structures on your property is noted. In one case, a property owner had a second house on the back of his property. The assessor did not know, however, that the house had been abandoned years ago, and had no heat, electricity, or water. By proving that the building should be appraised as a large storage shed rather than a home, the owner reduced his property appraisal (along with another reduction for the poor condition of his main house), resulting in a large yearly tax reduction.

Property condition as of January 1-Think about the condition your property was in on January 1. Even though this year's assessment is often based on property sales between Jan 1, 2010, and June 30, 2010, changes occurring in property condition after that time period and before January 1 of this year can affect your appraisal. Specifically, during the last year, was your property subject to fire, flood, hail, wind, tenant damage, structural damage, uncorrected curable depreciation, etc.-and not returned to its original condition by January 1. If so, ask that the change in valuation be noted on your appraisal.

Other adverse changes affecting property-During the last year, did your next-door neighbor erect a commercial building next to your property, reducing its value? Have these or other changes been noted on the appraisal?

Does your property border on a busy street? Is there a ditch running through or alongside your property? Is your property located next to a railroad track? Does your basement get wet every few rainstorms because of foundation problems? Is your property located in a flood plain? Have these or other changes been noted on the appraisal?

Commercial owners, have you discovered asbestos? Did the city change policy and no longer allow you to park on your street? Was your street changed to a one-way, creating more traffic? Has the city changed traffic flow in other ways, resulting in more people driving by your property?

Chapter 5

REPORT APPRAISAL CARD ERRORS

Report errors to the assessor

When you find mistakes with your property appraisal card data, note them and bring them to the attention of your assessor for correction. Whether the errors are in your favor or the assessor's, it is in your best interest over the long term to report them. Assessors will sometimes send a county appraiser to your property to confirm an error. Often, they will usually correct the error in the office. You do have the right, however, to a visit from the assessor if you believe it is warranted.

If the assessor agrees with you about the errors, the County Commissioners, who have final responsibility for the decision, will usually just approve the correction. If the assessor is in disagreement with your request, you will be notified of a hearing (meeting) with the commissioners (or their representatives). Many of these reductions are granted, equating to tens of millions of dollars. If, however, you are not totally satisfied with the commissioners' decision, you may carry your appeal further (see Chapter 12, Board of Assessment Appeals).

File for a tax refund

If substantial errors are found on your property appraisal card data, consider filing for a tax refund with the one-page "Petition for Abatement or Refund of Taxes" form

<http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

obtained from your assessor. Your assessor usually will help you complete it. Be aware that each county handles abatements on a different time schedule. The county must act on your petition within six months of receipt.

You can file for a refund of back taxes for up to two years if you have owned the property during that time and the error was reflected in your appraisal. Although you can file until December 31, 2013, for the May 2009 reassessment and December 31, 2015 for the May 2011 reassessment, it is best not to delay if this situation applies to you.

Factors that can contribute to overvaluation include the effective age of a property, quality, condition, depreciation, or economic obsolescence.

Prior owners sometimes give new property owners abatement rights. The written "assignment of abatement rights" allows the new owner to file for an abatement for prior years' taxes and keep the refund. When the situation occurs, the assessor should consult the county attorney before approving or denying the abatement.

Chapter 6

REVIEWING THE ASSESSOR'S APPRAISAL NOTICE OF VALUE

Receipt of Appraisal Notice

In early May you should receive a notice of value (appraisal) for the 2011 reappraisal. If you do not have this notice, contact your county assessor to find out the assessor's current value ("Total Actual Value") of your property. You may not have received the notice for one of two reasons:

1. You were not the property's owner of record in April, 2011.
2. The assessor has an inaccurate mailing address.

You may now request your notice of value via email. Contact each assessor for their rules.

Information Contained in Notice

The amount on the notice includes the value of land and improvements (buildings and any other structures on the property). You will also see your prior valuation on this notice.

A few counties will also include an estimate of next year's tax bill on the notice. Do not make any decisions about the accuracy of your appraisal on the basis of this estimate.

Chapter 7

COLLECT DATA

After reviewing and correcting any errors on your property appraisal card, your newly adjusted appraisal value may still be inaccurate. You should collect data to determine your own appraisal position.

Determine the Base Period

Determining your property's fair value for assessment purposes involves proving its value as of June 30, 2010, generally using the January 1, 2009-June 30, 2010 time period. This is called the *base period*.

Before you go any further, call your county assessor to see if this is the base period which he/she is using for your property. By law, assessors can use a more extensive base period if there were insufficient property sales during the normal time period. For example, many counties are using a 24 month base period on some types of property. Counties for some types of properties with less than 30 sales typically extend the sale date back, up to five years, in six month increments.

Verify Taxing Districts

Look at your tax bill or ask your assessor or treasurer in which taxing districts he/she has you listed. Every property owner has separate taxing districts for various services, including fire, sewer, water, parks and recreation, etc. If you have any question on the accuracy of the districts in which the assessor has you listed, just call the district in question to verify its boundaries.

Conduct Research Through One or More Methods

You can prove the value of your property through *one or more* of the following ways.

Comparables

The comparables method may be used in any situation, and is based on the fact that sales prices can generally establish the upper limit of a property's value. As such, you will need to compare your property's appraisal with sale prices of similar properties.

Obtain a List of Sales-From the Assessor

Assessors will make available, upon the request of a taxpayer or his/her agent, all data used by the assessor in determining the appraisal value of any property owned by that taxpayer.

Go online, go to or call your assessor's office, and ask for a printout of the sales the assessor used in determining the value on your property. Also request a copy of the calculations (market, cost, or income) the assessor used to determine your appraisal. Some assessor's list the comparables they used on the notice you receive in early May, so check for this. They may also be on the assessor's web page.

If more accurate/appropriate sales are available *after* the base period, it *might* be acceptable to also use those if it was under contract during the base period. Many MLS's note the listing history and under contract date in their data base.

You may also find more accurate comparable sales in areas outside your county. For example, your neighborhood may border on a similar neighborhood located in an adjoining county. Commercial, industrial property and apartment building owners will often need to look at sales in a larger geographic area for their specific type of property (for example, a car wash or a golf course), and, in some cases, in one or more counties. Many assessors will frown on this, if you don't want to use the available county comparables to support your position.

Be sure you understand the assessor's information. You will find unfamiliar codes and abbreviations on the appraisal. Do not be afraid to ask-and ask again-for assistance and explanations on anything you do not understand.

Your assessor has three working days to comply. There are some confidential information items such as income and expense statements on some commercial and industrial properties. They cannot use this confidential information against you unless the source information can be identified and shown to you.

Obtain Additional Information

If you want to "go the extra mile" in your research, you can then contact a Realtor and ask for a copy of the actual MLS "sold" data for those comparables you have obtained. Review them thoroughly. You may even want to call the listing agent for each property for additional information that might strengthen your case (attractive financing, property condition, etc.). If you do enlist the assistance of any Realtor, be sure to thank them.

Foreclosures

Foreclosure, for property tax purposes, is defined as the sale of a property to a new owner from a bank or other foreclosing entity.

Be sure your assessor included foreclosures in the appraisal calculations on your property as that might lower your valuation.

Price-per-Square-Foot

The price-per-square-foot method involves dividing the assessor's appraised value of your property by your property's square footage. For example, if the total valuation on a 1,000-square-foot home is \$100,000, the price per square foot would be \$100:

$$\$100,000 / 1,000 = \$100 \text{ (including land)}$$

Calculate the price per square foot for your property, as well as for those properties on the lists you have obtained. Assessors may do the computations for you once you have identified the comparables you wish to use. They may even supply you with a printout detailing what the assessor's exact position would be if he/she used your comparables.

For commercial properties, you can get extensive information on prices per square foot from assessors, commercial Realtors, or through the Building Owners & Managers Association International (B.O.M.A.) (303) 383-4870 in Denver or for southern Colorado at (719) 473-8200. Both will be very helpful.

Purchase Price

If you bought your property in the base period, use this method alone or in conjunction with other methods. If your purchase represented a typical "arm's-length transaction" (i.e., you bought it on the open market and not from a family member or close business associate), the assessor's appraisal of your property should almost always be lower than what you paid for it.

Several items which serve to increase a property's selling price in the marketplace may not be considered in assessors' appraisal calculations. The values of those items should be deducted from the property's sale price to arrive at a fair and correct appraisal. If the assessor's appraisal of your property is equal to or higher than the price you paid for it in the base period, there is a good possibility of an error.

Examples of these items include:

-Excellent financing plans such as owner-carry loans. They usually create an artificially high sale price compared to the price the property would bring if it were appraised or sold on a cash-offer basis.

-Cash value (depreciated value, or value in the current condition) of items sold with the property, including: wall-to-wall carpeting; free-standing household appliances; window coverings; personal property; water rights; mineral rights; goodwill; or fixtures owned by a tenant.

-Personal Property

Use care when utilizing the "Real Property Transfer Declaration" form, http://dola.colorado.gov/dpt/publications/docs/2010_manuals/Full%20Volume_10-2010.pdf (page 9.127) required at all real estate closings since July 1, 1988, as a properly completed form can serve to *reduce* the valuation of a property for tax purposes. Be aware that it is considered a confidential document.

Question 5 refers to the value you place here. It reduces the assessor's valuation of your property as well as others similar to it. For example, if the property sold for \$300,000, and included \$20,000 in personal property (such as wall to wall carpeting, attached or unattached, window coverings, free-standing appliances, inventory, equipment, furniture, goodwill, water, or mineral rights etc.) then the assessor would adjust its value to \$280,000. Note that personal property is usually but not always, unattached to the property.

In the case of apartments and commercial/industrial property, the correct information provided in Question 5 also helps to eliminate double taxation, as these same items would also be taxed on a personal property tax schedule. For example, fixtures, as well as the desks, computers, and machinery in an industrial building are all taxed annually, just like a house. Residential properties, with the exception of apartment buildings, by law are not subject to personal property taxes.

Many people believe that the purpose of Question 5 is to identify personal property in residential homes so that it can be taxed, just like commercial personal property is taxed. This is simply not true unless the Colorado Constitution is changed. Unfortunately, however, many people are not answering Question 5, thereby hurting property tax positions.

In addition, many people are not aware that wall-to-wall carpeting, even though it is attached, is considered personal property taxes in the eyes of the assessor as the law was passed in the 1950's when wall to wall carpeting first appeared and wasn't attached.

Question 10-13 currently are being used only to identify unusual or special financing transactions so that an appropriate sale price adjustment can be made for valuation purposes.

If you have already filled out the form, but think you have made an error, or if you left any question unanswered, let your assessor know. You can go back and change/update the form at any time.

Price-per-Unit

The price-per-unit method, for apartment building owners, involves dividing the assessor's appraised value of your property by the number of apartment units. For example, if the total valuation on a 10 unit building is \$600,000, the price per unit would be \$60,000.

$$\$600,000 / 10 = \$60,000 \text{ (including land)}$$

Calculate the price per unit for your property, as well as for those properties on the list you have obtained.

You may need to obtain average price per unit, rental rate and vacancy rates. The more localized the information is, the better. This information is available through several sources:

- The assessor's office - be sure to ask *how* they obtained their data.
- Apartment and commercial property management companies (refer to on-line listings).
- Apartment Association of Metro Denver, Inc.-(303) 329-3300. The Association has surveys available for sale of metro-Denver vacancy rates. The surveys are authored by Gordon E. Von Stroh, Ph.D., of the Graduate School of Business and Public Management and College of Administration at the University of Denver.

Other Appraisals

Use as proof any type of appraisal done on your property, preferably in the base period. A strong case can also be made for using appraisals completed after the base period if they were under contract on June 30, 2010. Appraisals may include (but are not limited to) appraisals from banks, the VA, or the FHA, and appraisals done for second mortgage, SBA, equity line of credit, or bond loan approvals.

Hiring an appraiser at a cost of \$350-\$450 is usually not worth the cost for this purpose for most residential property owners. Owners of other types of properties should conduct a cost/benefit analysis before hiring an appraiser. If you do decide to go ahead with an appraisal, make sure you specify the official appraisal date (June 30, 2010 not the current date!) for which you want the appraisal. These may be available through your local library.

On the Market in the Base Period

If your property was on the market in the base period, *but did not sell*, it probably was not worth the asking price. You should be able to substantiate the upper limit of its value to the assessor with a copy of a listing agreement, dated MLS brochure, even a dated newspaper advertisement-anything which proves it was on the market and states the asking price. If you received a written offer on the property, submit that information as well, or a sworn statement by you to that effect.

Additions or Improvements

Assessors add the value of additions or improvements made to your property, by you or a prior owner, to your appraisal via the information on a building permit. It is your responsibility to make an accurate and valid determination of the *market value* as opposed to cost of those additions or improvements. You might want to contact an appraiser for written estimates of the market value of the addition or improvement.

For example, a swimming pool which cost \$20,000 to build will probably not actually increase the property's value by \$20,000. Also, if a building permit was pulled by you or a former owner, but the work was never completed, there is a good chance that the value shown on the permit has been added to your appraisal anyway, as some assessors may not have had the time or money to confirm its construction.

For commercial properties, building permits for tenant finish should not affect the value of property since the property is appraised assuming adequate tenant finish.

Unbuildable Lots

You may be able to substantially reduce the assessor's appraised value of certain lots if they meet *any one* of the following criteria:

- The lot is too small to build on, as defined by zoning standards.
- The lot does not qualify for a well permit (assumes no public supply is available).
- The lot is too small to qualify for a septic system permit (assumes a public sewer system is unavailable).
- The lot is land-locked: The property is totally surrounded by other properties, thereby preventing normal access.

Should you have an unbuildable lot, obtain statements from the proper zoning and/or water authorities certifying the above criteria.

Income/Expenses

If you are a commercial/industrial property owner using the Income Approach, you should collect the following information:

Tax Returns

Have your tax returns available for review to prove your income and expenses. Only you or, with your permission, your agent, can access the return if the return is left with the assessor as it's confidential information.

Lease Rates

You may also want to have copies of your leases available. Extensive information on lease rates per square foot may be available through assessors, commercial Realtors, or through the Building Owners & Managers Association International (B.O.M.A.) (303) 383-4870 in Denver or for southern Colorado at (719) 473-8200.

Capitalization Rates

Collect capitalization rates of other "sold" properties for properties similar to yours from the listing brokers, as this is where most of the discussion with assessors will concentrate. Also contact your assessor to find out what cap rate he/she is using for your type of property, or a commercial appraiser, as well as the Denver Building Owners and Management Association International (B.O.M.A.) (303) 383-4870 and Colorado Springs at (719)-473-8200.

Vacancy Rate

You may need to obtain average vacancy rates. The more localized the information is, the better. This information is available through several sources:

Rent roll and expenses for the property showing conditions on June 30, 2010.

- The assessor's office-be sure to ask *how* they obtained their data.
- Commercial property management companies (refer to on line listings).
- Commercial Realtors for help.
- Denver Building Owners and Managers Association International (B.O.M.A.) (303) 383-4870 and Colorado Springs at (719) 473-8200 for help.

Chapter 8

ANALYZE THE DATA THROUGH ONE OR MORE METHODS

After you have collected all your information, analyze it. Be reasonable and fair. You can either use the *lowest* values you have obtained in your research (some assessors will use the highest ones), or average the sale prices together. If, in your analysis, you find you are in disagreement with the assessor's appraisal of your property, you should file a protest.

Comparables Method

Compare the assessor's appraisal of your property with the sale prices of the comparables you have collected. Look primarily at comparables from the base period, and only at those which are most similar to your property (style, general size, general age, etc.).

Another point to remember is that you *can* adjust sale prices through the entire base period to their values as of June 30, 2010, the last day of the base period and official appraisal date. Call the assessors office for their monthly time trends.

Property owners using the cost approach should add together the land value and the non-depreciated building value to determine the current replacement cost. They can then continue, following the steps outlined below.

Compare properties

Drive by the comparable properties for which you have obtained addresses to ensure that they do represent fair comparisons to your property. Take pictures of the properties if you like. If a comparable property was sold by a Realtor, you could even go a step further and contact him/her (names available through MLS "sold" data from a Realtor) for additional information about that property which may help you.

Consider how the properties compare to yours. Are they in better condition, in a nicer subdivision or neighborhood than yours? Do the other properties have any special features, such as a swimming pool, docks, or a sprinkler system? Look at floor plans, too. For example, a second bath will generally increase a property's value more if installed off the master bedroom than if added in the basement. Or, a home with two bedrooms on one level and a third on another is generally worth less than a home with all three bedrooms on one level—even if both homes carry the same overall square footage.

Commercial and industrial property owners: Do the comparables have more acreage or parking, or a railroad spur?

Also make notes on any physical weaknesses in your own property, such as a cracked basement. Is your property next to a railroad track? On a busy street? Note these and any other comments about the properties.

Obtain a comprehensive list

If, after your checking, you find that the list of comparable properties you receive from the assessor is not really comparable, go back and request another, more comprehensive, list. Keep the erroneous list, though, because the assessor might unknowingly be using these very properties to defend his/her position!

The more good comparables you obtain, the better position you will be in to substantiate the value of your property. The only comparable information the assessor can use to defend his/her appraisal of your property is the sale price of properties similar to yours. You are entitled to the same information as the assessor.

Give the best comparables the most weight in deciding what your property should be worth. If the sale prices of the best comparables and your own appraisal are about the same, and you have already verified and corrected your appraisal data, chances are good that your appraisal is a fair one.

Foreclosures

If you have turned up some foreclosures (sold by a lending entity) in your research, use care in weighing them. If you have found only one foreclosure among four or five good comparables, don't put much weight in it. On the other hand, if two or three of your best comparables turn out to be foreclosures, they deserve considerable weight in your analysis.

Price-per-Square-Foot

If the calculated price-per-square-foot on your property is higher than the price-per-square-foot on the properties from the list of comparable properties you have obtained, you will probably want to file a protest.

Purchase Price

If you are using the purchase price method, your analysis is simple. As explained, the assessor's appraisal of your property should be no more than what you paid for it. If it is higher, consider protesting. Be sure and use this method if you can. Compare your closing date to the official June 30, 2010 appraisal date. If the property decreased in value, subtract the assessor's monthly time trends.

Price-per-Unit

If the assessor's calculated price-per-unit on your property is higher than the price-per-unit rate on other properties from the list of comparable apartment buildings you have obtained, you will probably want to file a protest.

Other Appraisals

If other appraisals of your property are lower than the assessor's appraisal of your property, you will want to file a protest. These other appraisals can often be used successfully to bring the assessor's appraisal down to their level and even further using the assessor's monthly time trends.

Be sure the appraisal is dated within the base period. By law, the assessor will not be able to consider any appraisals that are not in this range.

On the Market in the Base Period

If the assessor's appraisal of your property is higher than the price for which you *attempted* to sell your property, the assessor should reduce your appraisal to at least the level at which you attempted to sell. If you received a written offer, use it to reduce your appraisal even further.

Additions or Improvements

Most additions and improvements do not increase the value of the property by the amount they actually cost to build. If you (or a prior owner) have made an addition or improvement to your property, it is important to look at its *market* value, not cost.

Consider protesting your appraisal if this or any other similar situation applies to you.

Unbuildable Lots

The appraisal on an unbuildable lot should be close to zero (\$0). If you have a lot which is unbuildable according to the definitions described earlier in this book, you should consider filing a protest.

Income/Expenses

Commercial and Industrial property owners using the Income Approach may use one or both of the following techniques to analyze their tax positions:

Capitalization rates

Collect capitalization rates of other "sold" properties for properties similar to yours from the listing brokers, as this is where most of the discussion with assessors will concentrate. Also contact your assessor to find out what cap rate he/she is using for your type of property, or a commercial appraiser, as well as the Denver Building Owners and Management Association International (B.O.M.A.) (303) 383-4870 and Colorado Springs at (719)-473-8200 for help.

Vacancy rates

Determine the average vacancy rate for buildings similar to yours from the collected data. Use the highest vacancy rate that is appropriate and defensible-the average or your own actual rate-to determine your property's value. If the value arrived at is lower than the assessor's appraisal (perhaps due to the vacancy rate the assessor is using), you should consider protesting.

Chapter 9

FILE A FIRST-ROUND PROTEST (ASSESSOR)

Protesting an inaccurate appraisal can make a real difference in your tax bill and in some ways increase the value of your property due to lower taxes. If you reduce the assessor's appraisal by 10 percent, your upcoming tax bill will be 10 percent less than what it would have been otherwise.

Also, the volume of protests itself can often make a difference. If assessors receive a large number of protests from a particular subdivision or type of commercial or industrial building, for example, they may realize that those appraisals are indeed inaccurate. The assessors would be more likely, then, to correct the situation *en masse* the following year.

Basis of Protest

Property owners can protest in two ways:

1. The assessor's total appraisal (land and building). By law, you cannot protest individual components.
2. Appraisal errors

When to Protest

You may file a protest with your county assessor in May. *Written protests* must be postmarked no later than June 1. *In-person protests* may be filed during business hours any time in May. An in-person protest will insure more attention to your case.

If you find yourself short on time to prepare your protest, you can simply let your assessor know, in writing or in person, that you wish to protest. All you need to do is write a short note stating that you are protesting your valuation. You need not use any special form. You will probably get a denial notice if you take this action, but it will preserve your right to protest in the *second* round. Also if you wait until the very end of the protest period, your protest often will not be reviewed due to time constraints but you will get a denial notice to allow you to protest a second time.

If you do not make the deadlines for protest, there is another way to protest. In effect, you can have a year-round protest with your first protest attempt in the two-year reappraisal period. You must use the "Petition for Abatement or Refund of Taxes" form, do the research already noted in previous chapters, and state your reason for protest such as valuation, errors etc.

<http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

How to File

You probably received a protest form with your reappraisal notice of value. You do not need to use the form to file a protest. Any note by mail expressing the thought will do.

Whether or not you use the assessor's form you need to document your position.

Include as much supporting documentation as possible in your protest. Make sure the property identification number is on every piece of paper you prepare.

Include information on all good comparables, not just the best ones. Include *all* the comparables you have: one or a dozen. An assessor typically has three or four comparables for his/her defense.

Vacant Lots "Request to Combine Properties" Form

At any time, you may file this form

http://www.co.jefferson.co.us/assessor/assessor_T80_R43.htm

(This is the Jefferson County form that might be good in your county. As of this date I could not find a universal Colorado form.) This will obtain a possible reduction in land valuations if you own a vacant lot. Specifically, you may be able to consolidate a vacant lot with your adjacent home or other residential dwelling(s) lot for tax valuation purposes. Or, if you own several pieces of vacant land, you can combine them into one tax bill. Either way, they must be contiguous, be in the same taxing districts, and have the same exact ownership.

The principle of lot, or land, consolidation is based on diminishing purchase price (value) per lot. That is, the value of each site will generally decrease as the number of sites purchased together increases. For example, if one lot costs \$80,000, three lots purchased together would not necessarily cost \$240,000. Note that consolidation of vacant lots does not affect the salability or current fair market value of the lots. At the time you sell one of the contiguous lots, the assessor then recreates two separate files, generating two separate tax bills

In addition, remember that the assessment rate on vacant residential land is 29 percent. If you can combine a vacant residential lot with the lot on which a house is built, your assessment rate on the combined lots will be 7.96 percent (the residential rate). That would reduce your taxes by over two thirds-or even more, because a few assessors put one value on a lot, regardless of its size.

If you can separate any residential, commercial or industrial property to agricultural that will substantially reduce your tax burden.

Chapter 10

EVALUATING THE ASSESSOR'S ANSWER

First-Round Protest Results

You can expect to receive a letter notifying you of the results of your protest in late June or early July. If you do not receive a notice on or before the last working day in July, though, call the assessor. Make sure your protest, as well as the result, was recorded. A few assessors may decide to expand their notification time deadline.

If you are in agreement with the assessor's decision, your work is done until next year. As a few assessors do not record corrections permanently, be aware that you may need to repeat the process in 2013.

If you have waited to protest until 2012, however, and win, the correction will automatically be retroactive to the previous year (2011). To obtain a refund on the 2011 taxes, you are required to file a "Petition for Abatement or Refund of Taxes" form. You can usually obtain this form through your assessor's office, through the Colorado Division of Property Taxation or online at <http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

Deciding to Appeal the First-Round Decision

If you are in disagreement with the assessor's decision, you have the right to file a second-round protest (tens of thousands are appealed). Regardless of the decision, the assessor's written answer does not mean he/she has actually reviewed your case. Should you be denied in the first round, take your case to the second-and third, if necessary-rounds of protest. It is only then that many assessors begin to take protests seriously.

If you decide to take your protest to the second round, you have only a few days in which to notify the Board of Equalization (County Commissioners). Look for the deadline in your first-round denial notice. If you do not notify the Board as instructed, you will lose your right to protest any further, and then must accept whatever your tax bill is next January.

If you are denied in the first round, and believe you have a good case, I encourage you to file a second-round protest. You have an excellent chance of winning your protest if you continue to the second, then third rounds.

Negotiation

At any time in the protest process, you may find that the assessor offers to reduce your valuation. This happens most commonly at the beginning of the hearing in the second or third rounds, and usually because the assessor does not have enough data to defend his/her position.

In such a situation, the assessor (or, on occasion, the county commissioners) will offer you a "stipulation," or a flat offer to accept a lower valuation. If you accept this offer, your appraisal will be reduced accordingly and you then forfeit any additional right to protest until next year. A stipulation is only good for the year in which it is accepted.

If you accept a stipulation during your protest in 2012, remember to file a "Petition for Abatement or Refund of Taxes" form <http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf> to obtain a refund on 2011 taxes. Any corrections made to your valuation are usually automatically retroactive to the previous year.

If you choose to reject the offer, the hearing will continue as scheduled. In almost all cases, the hearing officer will not rule higher than the assessor's latest offer. Depending on your case, you may have a chance to reduce your appraisal further than the offer.

As stated before, the burden of proof is no longer on the property owner. In the second round of protest, however, the assessor will also be trying to prove his/her position. If it appears that both you and the assessor have good cases, be willing to negotiate for a middle ground if an offer is made to you-but not until then.

Chapter 11

FILE A SECOND-ROUND PROTEST (Board of Equalization)

Instructions for applying to the second round of protest will be outlined in your first-round denial notice. Generally, you simply mail in the form within a specified time period (often two weeks), and wait to hear when your second round is scheduled. Over 35,000 property owners typically protest at this second round level, every two years, with each reassessment.

The second round is a meeting with the Board of Equalization: county commissioners or their representatives, called hearing officers. This round may create a fairer and more complete review of your protest than the first round. If hearing officers are utilized by your county commissioners, they will make recommendations to the commissioners on each case after hearing both the assessor's and property owner's positions.

The Hearing

The hearing is simply a meeting and nothing of which to be afraid. Do not be surprised to see the same assessor personnel at this and other rounds of protest. In this hearing, the property owner begins by stating his/her position to the county commissioners; be sure to tell the commissioners what you think your value should be and why. *Do not talk about taxes. It's not relevant and will work against your protest.* The assessor then states his/her position. Note that you will receive a copy of the assessor's worksheet containing the comparable data he/she is using to defend his/her valuation.

The assessor might also state the weaknesses of your position, and you should be prepared to state the weaknesses of his/her position, as well as defend your own position. The commissioners can ask questions of both you and the assessor. Be aware that a few assessors may stretch to find weaknesses in your position.

After you and the assessor have stated your cases to the commissioners, each of you will have the opportunity to ask questions of the other. You and the assessor will then make final statements to the commissioners. In your final statement, recap your strong points as well as any good reasons you have to believe that the assessor's data is wrong. You will be notified of the commissioners' decision by mail within 30 days.

Preparation

Once you elect to go to the second round, you can take additional action to prepare. When you send in the form to protest in the second round, ask for the assessor's documentation that will be used against you at the hearing. Assessors are required to provide this information to you, *upon request*, 48 hours prior to the hearing. You, however, do not need to submit anything before this hearing.

Drive by and research the properties to ensure that they are good comparisons to your property, and to identify the assessor's weak comparables or other mistakes.

You can add, change, or delete material used in the first round of protest in this round. To go "the extra mile," obtain photo copies of the comparable properties' "sold" data from a Realtor in your area. Contact the Realtor who listed the property (from the MLS data) and ask for any additional information which might help your case: views, property condition at time of sale, etc.

Also, obtain the appraisal card data for each of the assessor's comparables. Check the accuracy of the property appraisal card data with the MLS brochure information. Finally, attend other hearings. They are open to the public and it will build your confidence as well as help improve your case.

Bring four extra copies of all your documentation to the hearing; give one to the assessor and keep one for yourself. Make sure the original goes to a county commissioner. If there is more than one commissioner, provide each with a copy.

Once at the hearing, do not allow (object!) any attempt by the assessor to introduce any additional evidence other than that provided to you 48 hours before the hearing.

Chapter 12

-FILE A THIRD-ROUND PROTEST

Should you be denied in the second round, I strongly encourage you to continue your protest. In the third round, you have three choices of appeal: the Board of Assessment Appeals (B.A.A.); District Court; or Binding Arbitration.

Board of Assessment Appeals

Should you be denied in the second round, you are encouraged to file for the third round of protest with the B.A.A. It appears daunting at first but is simply like the earlier round with a little more pomp and circumstance. Property owners file thousands of B.A.A. third-round protests each reappraisal year. In this hearing, the county has little or no influence. By law, your valuation cannot be increased at this hearing.

Instructions will be contained in the second-round denial notice. Generally, the property owner will be instructed to call the B.A.A., (303) 866-5880 to request a packet of information. When received, complete the document within 30 days of receiving your decision from the Board of Equalization (second-round decision).

The third-round B.A.A. hearing is very similar to the second round in style. <http://dola.colorado.gov/baa/instruct.htm> Typically, a panel of two hearing officers will hear your protest. A county attorney will represent the commissioners and use the assessor as a witness. The rules will be sent to you. <http://dola.colorado.gov/baa/rules.htm>

To prepare for the hearing, which will usually be conducted in downtown Denver, review all the comparables the assessor gave you at the previous hearings for errors or discrepancies. Ten days before the hearing, you and the assessor must submit to the B.A.A., and to each other, all data which will be used at the hearing. No additional written evidence can be used at the hearing. You and the assessor can, however, submit additional verbal evidence.

You can represent yourself in this round for free on your first property and \$33.75 for each additional property, or employ the services of an attorney or tax agent at a hearing cost of \$101.25. In the case of a commercial property that is corporately owned, an attorney is always required. Actually, anyone with your written permission may represent you. Using an attorney may or may not be cost-effective. Identify the amount of your tax savings for which you are striving and compare it with the cost of the attorney. At the hearing the county will always be represented by a county attorney and will use assessor staff as the county expert.

You may also bring in an expert witness(es) in support of your case. If you do use expert witnesses, be aware that they can only answer questions posed directly to them at this hearing. Prepare your questions carefully, and in such a way as to obtain the information you want the hearing officers to know.

Your hearing will be scheduled within 18 months of filing. You will be notified by mail usually with several months notice or at least 30 days in advance of the hearing. Often you can ask for which days of the week are best for you. Thirteen days before your hearing, pick up from the assessor the assessor's position and review it prior to your 10-day deadline to submit your data.

Hearings are open to the public. Attending one or two will make you more comfortable with the process. Be sure to go to their website for two informative videos and other helpful information. <http://dola.colorado.gov/baa/index.htm#>

If you conduct your protest in 2012, and are successful in this round, do not forget to file a "Petition for Abatement or Refund of Taxes" form to obtain the refund on your 2011 taxes.

<http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

District Court

District Court is expensive, risky, and generally utilized only with large commercial and industrial properties, large apartment buildings, large land holdings or state assessed property. Your third-round denial notice will provide more information.

Appeals here should be reserved for properties that have legal issues as well as valuation issues as the court is more effective with dealing these legal issues. The decision of the District Court can be appealed further.

Call a property tax attorney for additional advice on this procedure.

Binding Arbitration

After you meet with the Board of Equalization (second round), you could choose to go to binding arbitration instead of the B.A.A. or District Court. If you choose this arbitration route, it will be your last form of protest. You can not advance further if you do not agree with the decision.

Arbitration carries a maximum cost of \$150 (for residential properties), usually payable in the form of a deposit by the property owner. Fees for all other types of properties are as agreed to by the parties involved. After the hearing takes place, the arbitrator will make a final determination on the payment allocation between the parties involved; the property owner may end up receiving a full or partial refund.

If you do choose arbitration, check the qualifications of the potential arbitrators carefully. The list of potential arbitrators is a county commissioner approved list of attorneys, retired judges or a real estate broker. Try to obtain an arbitrator who is a member of the Institute of Real Estate Appraisers, or ones with any of these designations: MAI, SRA or SRPA who has experience and qualifications with the type of property you own (e.g., agricultural, commercial, industrial or residential). The format of the hearing is the same as that of the second round of protest. These hearings are informal and may be confidential and closed to the public if there is mutual agreement between the county representative and the taxpayer.

If you win your protest through arbitration in 2012, do not forget to file "Petition for Abatement or Refund of Taxes" form to obtain your refund on last year's taxes.

<http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

I recommend binding arbitration only if the arbitrator (hearing officer) is a member of the Institute of Real Estate Appraisers or ones with these designations: MAI, SRA or SRPA and if you are already experienced in and comfortable with the protest and assessment system. I do not recommend it in general, and definitely not for property owners filing a protest for the first time.

The third-round B.A.A. protest leaves the door open for the fourth round if necessary; once you go to arbitration, you forfeit your right to all future rounds of protest for this year.

Chapter 13

FILE A FOURTH-ROUND PROTEST (Court of Appeals)

You may go to the Court of Appeals only after a third-round decision of the B.A.A. or District Court has been made. The Court provides a judicial review of your case, reading the transcripts of the third-round B.A.A. or District Court hearing and reviewing the documentation to determine if facts are true and the law was followed. No new information can be presented here.

Call a property tax attorney for additional advice on this procedure.

AFTERWORD

I have written *Overtaxed! Your Guide to Honest Property Tax Reductions by Understanding and Effectively Protesting Your Assessment* out of a sincere desire to help people in Colorado understand and reduce their property taxes. I set out to write the most comprehensive manual available on the subject, and believe I have succeeded.

Growth is a never-ending process, so, as laws change and more information becomes available, I will be updating the book as necessary. Please check the copyright date for the latest edition.

Although I can not guarantee you success, the methods outlined here have worked for tens of thousands of people who have used them in the past. Take your time, have fun, and pursue the money that belongs to you!

If you need help, contact me. I do residential properties for free in the Arvada area, if you will interview me to buy or sell property someday, or refer me to others. Large Commercial, Industrial or state assessed properties are protested with 25% of the savings as my only fee. There is no fee if the protest is not effective. Please contact me at EdCTomlinson@yahoo.com

GLOSSARY

A

Appraisal-the dollar value assigned to a property by the county assessor; it is *not* the property's current fair market value. Also referred to as "assessor's appraisal," "total actual value," "actual value," "appraised value," and "assessor's value."

Appraisal card-the assessor's written inventory of information about a piece of property, usually including land size and contour, square feet of buildings, number of baths, etc. This may only be available electronically.

Arbitration - the non-judicial submission of a controversy to selected third parties for their determination.

Arm's-length transaction-a transaction involving two parties who are unrelated to one another, and whose mutual dealings with each other are influenced only by the independence of each.

Assessment-an official valuation of real property for tax purposes, based on appraisals. Multiplying the appraisal by the *assessment rate* determines the assessment.

Assessment rate-the percentage of a property's total value used to calculate a property's assessed value (assessment). The assessment rate is at 7.96 percent for residential properties and 29 percent for commercial, industrial and vacant land properties. Multiplying the appraisal by the assessment rate determines the assessment.

Assessor's appraisal-See "Appraisal"

Assessor's value-See "Appraisal"

B

Base period-the time period used in calculating appraisals; the period of property sale dates that each county assessor uses in collecting data to determine property values. Example: January 1, 2009-June 30, 2010.

Board of Assessment Appeals-a state agency set up to allow a taxpayer to seek relief from the county Board of Equalization's opinion of value (decision rendered in the second round of protest); the third round of protest.

Board of Equalization (County)-the county reviewing agency holding the authority to adjust inequities in property assessments. The Board is overseen by county commissioners and usually operated by the county attorney's office for the purpose of listening to taxpayer appeals of the county assessor's valuation on property; the second round of protest.

C

Capitalization rate-the rate of return that an investor wants on his/her cash outlay; calculated to include the purchase price and closing costs in a cash transaction.

Comparables-sold properties that are similar to a particular property being evaluated and are used to indicate a reasonable fair market value for the subject property.

Cost approach-an approach to the evaluation of property based on the property's reproduction cost; generally, the current reproduction cost of a building, minus depreciation plus the value of the land.

Court of Appeals-a court possessing jurisdiction to review the law as applied to a prior determination of the same case (fourth round of protest).

D

Denial notice-a negative answer to a taxpayer's protest.

Depreciation - a loss in value due to any cause; any condition that adversely affects the value of an improvement.

E

Equalization-the adjustment of the appraised valuation of real property to achieve a parity with the level of appraisal of other similar properties, without regard to the properties' true value.

Expert witness-a person having special knowledge of a subject about which he/she is to testify.

F

Foreclosure-selling of property to the general public in order to satisfy a debt.

G

Goodwill-an intangible asset arising from the reputation of a business; the expectation of continued public patronage; including other intangible assets such as trade name, relationship within the community, supplier relations, etc.

H

Hearing-a conference, meeting, or proceeding wherein evidence is taken for the purpose of determining an issue and reaching a decision based on that evidence.

Hearing officer-the individual(s) who have been granted authority to make recommendations to the county commissioners as a result of information gained at a hearing.

I

Improvements-valuable additions made to property which amount to more than repairs, costing labor and money, and are intended to enhance the value of property.

Income approach-an approach to the valuation or appraisal of real property as determined by the amount of net income the property will produce over its remaining economic life.

L

Land valuation-that value applied to land as determined by the assessor as if the land were vacant.

M

Market approach-an approach to the valuation or appraisal of real property based on comparing sale prices of similar properties which were sold.

Mass appraisal method-the computer-assisted method of appraising large numbers of properties.

Mill levy-one-tenth of a cent (.001); multiplied by the assessment to determine property taxes.or the number of dollars a taxpayer must pay for every \$1000 of assessed value.

N

Neighborhood adjustment (NHAJ)-a technical term having the purpose of adjusting the difference in value of one similar neighborhood to another.

Notice of valuation - a statement offering the assessor's opinion of the total actual value of a piece of property.

O

Official appraisal date-the day and year selected for tax purposes to establish a property's value as of that moment in time. The date is determined by state law.

P

Personal property-items which are real and often movable; property which is not classified as real property.

Petition for Abatement or Refund of Taxes Form-form used for the purpose of seeking relief or refund of property taxes.
<http://dola.colorado.gov/dpt/forms/docs/AbateForm2YrJKORev3.pdf>

Property identification number-the number used by the assessor to identify a specific piece of property. Often referred to as "schedule number."

R

Real property-the earth's surface, the air above, and the ground below, as well as almost all attachments to the land, including buildings, structures, fixtures, fences, and improvements erected upon or affixed to the same.

Real Property Transfer Declaration Form-form used to convey information to the assessor about the purchase a buyer has made.

Reappraisal-a new determination of value, based on a new date of value.

Reappraisal date-see "Official appraisal date"

Request to Combine Property Form-form used to combine separately taxed pieces of property.

Residential property-single-family houses, duplexes, triplexes, apartment buildings, and mobile homes.

S

Sales ratio analysis-a list of properties sold within a base period for the purpose of comparing the assessor's value with the actual sale price in that same time period.

State Assessed Property-values all public utilities and rail transportation companies doing business in Colorado. The company valuations are then apportioned to the counties for collection of the local property taxes. Ex. Airlines

Stipulation-an agreement, admission, or concession made by all parties for valuation purposes; enforceable only for said year.

T

Taxing district-the geographic location or boundaries in which a tax can be imposed on property.

Total actual value-See "Appraisal"

V

Valuation-See "Appraisal"

BIOGRAPHY

Ed C. Tomlinson works as a broker/associate with RE/MAX Alliance in Arvada for four decades, handling residential, commercial and industrial properties. He has been researching the state's property tax assessment system for over 25 years, and is recognized throughout Colorado as an expert in the field.

His working knowledge of the system is based on thorough study of assessors' policy and procedure manuals, training with appraisers from assessors' offices, and years of experience with the property tax protest procedure. He has conducted hundreds of protests, and has been featured extensively by broadcast and print media on the subjects of property tax assessment and the status of the Colorado real estate market. He was also invited to speak before the Colorado Senate and House Interim Tax Committee to offer recommendations on improving Colorado's property tax system. Legislators and others helped him sponsor and pass a bill to improve Colorado's property tax system.

He was a Certified Senior Appraiser with the National Association of Real Estate Appraisers, a senior arbitrator for the Better Business Bureau, and a past member of the Apartment Association of Metro Denver, the National Apartment Association, and the Arvada Chamber of Commerce.

Tomlinson also served as a Director and Treasurer for the Jefferson County Board of Realtors and Metrolist (MLS). As a director of the North Jeffco Park and Recreation (APEX), the Jefferson County Housing Authority, and twice as President of the Arvada Fire Protection District.

He is currently a member of the National Association of Realtors, the Colorado Association of Realtors, and the Jefferson County Board of Realtors and chair of the Arvada Harvest Festival Parade.

He has written one other best selling book *Real Estate for Pennies! Investing in Property Tax Liens for Profit and Property*. Another book, *Improving Your Parade* is set for Library release in October 2012.