

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KATHY GONIO,</p> <p>v.</p> <p>Respondent:</p> <p>PROPERTY TAX ADMINISTRATOR.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Kathy Gonio Address: P.O. Box 770857 Steamboat Springs, Colorado 80477 Phone Number: (970) 879-7341</p>	<p>Docket Number: 41107</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 6, 2003. Debra A. Baumbach and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Larry A. Williams, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Tr in NE4SE4 Section 31-4-85
(Routt County Schedule No. R6507487)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2001. The subject property consists of a parcel of vacant land consisting of 3.91 acres in Oak Creek, Colorado.

ISSUES:

Petitioner:

Petitioner contends that a computer error occurred on the valuation of the subject property and she should receive the tax abatement for the year 2001.

Respondent:

Respondent contends that the evidence will show that the Petitioner did not own the property for tax year 2001 and the Board lacks jurisdiction to grant the abatement request.

FINDINGS OF FACT:

1. Kathy Gonio, Petitioner, presented the appeal on her own behalf.
2. The witness indicated the subject property consists of 3.91 acres in Routt County, which is a steep hillside with erosion and does not have a buildable site. She has received an estimate for excavation for \$30,000.00. The property is undeveloped.
3. The witness testified that a computer error occurred in Routt County Assessor's Office for tax years 2000, 2001, and 2002. She filed for a tax abatement for the 2000 tax year from the Routt County Assessor's office in 2002 and received a refund of \$224.22. Ms. Gonio then filed for a tax abatement in April 2002 for tax years 2001 and 2002. The value of her property was reduced from \$94,100.00 to \$23,525.00 for tax year 2002 and the request was approved. The 2001 tax year abatement request was denied. She acquired a Treasurer's deed to the property on April 2, 2002. The Routt County Assessor's office also indicated a \$94,100.00 value for the property for tax year 2001.
4. Under cross-examination, the witness indicated that she purchased the property through tax lien sales in 1997, 1998, 1999, 2000 and 2001. On April 2, 2002 she was issued a Treasurer's deed for the subject property.
5. The witness testified that she began the tax abatement process in April, 2002 when she filed for the tax years 2001 and 2002 and was told by Routt County that she could go back two years prior to when she acquired the property for tax abatement relief.
6. During re-cross examination, the witness indicated that Petitioner's Exhibit 5 document is a copy of the Treasurer's deed for her property.
7. Petitioner is requesting a 2001 actual value of \$10,450.00 for the subject property.
8. The Respondent's witness, Ms. Diane Champney, tax abatement reviewer with the Division of Property Taxation, testified that she reviews the records for each property that is the subject of an abatement request. She recommended that a reduction for the tax year 2001 be denied.

based on *Sue Hughey vs. Jefferson County Board of Commissioners* case, which was presented as Respondent's Exhibit 2. This case indicated that a tax lien purchaser only has legal standing to have an abatement approved for the base period that occurs after they receive a Treasurer's deed. She relied on this document to deny the abatement request for the subject property.

9. Under cross examination, the Respondent's witness testified that when the Petitioner received a refund check for 2000 tax year, which was based on an error by Routt County, it did not require a review. The refund review was done internally by Routt County Assessor's Office and that she believes the Routt County was not aware of the Hughey case. The Division of Property Taxation has no legal standing because they did not review the case for the Petitioner. The Routt County Assessor is charged with properly valuing property.

10. Respondent assigned an actual value of \$94,100.00 to the subject property for tax year 2001.

11. The Respondent's closing indicated that the Petitioner has received an abatement that she wasn't entitled to. The courts are clear on the purchase of tax liens and that the purchaser has no legal standing until a Treasurer's deed is issued. The Respondent asks that the abatement for tax year 2001 be denied.

CONCLUSIONS:

1. Petitioner presented insufficient probative evidence to prove that the subject property was incorrectly valued for tax year 2001.

2. The Board agrees with the Respondent that they do not have jurisdiction in this matter since the Petitioner did not acquire a Treasurer's deed to the subject property until after the base period for this abatement hearing based on *Sue Hughey v. Jefferson County Board of Commissioners*.

3. The Board recognizes that the Routt County Assessor's Office gave the Petitioner erroneous information regarding abatements. The tax abatement awarded the Petitioner for tax year 2000 was given in error. It is the responsibility of the Routt County Assessor to maintain knowledge of pertinent court decisions and communicate with their constituents. Although the Board recognizes that the assessed value of the subject property has been erroneously valued for 2001 based on the 2002 tax year valuations, it does not have the authority to reduce that value for the tax lien purchaser since she was not the owner of the property during the base period.

4. This Board notes that the tax lien purchaser voluntarily purchased lien at auction and voluntarily paid subsequent real property taxes, but she was not legally obligated to pay taxes, and therefore she did not bear financial burden of paying taxes so as to have standing to petition for abatement for tax years in question.

ORDER:

The petition is denied.

APPEAL:

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

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

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

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 28th day of May, 2003.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Judee Nuechter

Judee Nuechter

This decision was put on the record

MAY 28 2003

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

