

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARK ALAN SCHWARTZ REVOCABLE LIVING TRUST NO. 1,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Mark Alan Schwartz Address: 3223 Lake Avenue, #394 Wilmette, IL 60091 Phone Number: (312) 907-8045</p>	<p>Docket Number: 43610</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 23, 2005, Debra A. Baumbach and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Debbie J. Faber, Esq.

FINDINGS OF FACT AND CONCLUSIONS:

1. Subject property is legally described as follows:

**460 El Mirador, Edwards, Colorado
(Eagle County Schedule No. R047836)**
2. Petitioner is requesting a reduction in value of the subject property for tax year 2004.
3. Counsel for Respondent moved to dismiss the appeal on the grounds that Petitioner failed to meet the July 15 statutory deadline for filing the appeal with the Eagle County Board of Equalization and therefore, the Board of Assessment Appeals lacks jurisdiction.

4. The Board of Assessment Appeals (BAA) may hear appeals from county boards of equalization provided that the taxpayer appeals to the BAA within 30 days from entry of any such decision pursuant to §39-2-125(1)(c) C.R.S. The BAA may also hear appeals from determinations of county assessors when a county board of equalization fails to respond timely to a properly filed appeal by a taxpayer pursuant to §39-2-125(1)(e) C.R.S.

5. The letter from Respondent to Petitioner dated July 19, 2004, does not constitute a decision of the county board of equalization; however, it appears that the Respondent effectively determined that it would not hear Petitioner's appeal as it was not timely filed.

6. Petitioner's appeal to the Respondent was untimely as admitted in his response to the Respondent's Motion to Dismiss. The Respondent therefore had no jurisdiction to consider the untimely appeal and the BAA has no corresponding jurisdiction to further consider the appeal under §39-2-125 C.R.S.

ORDER:

The petition is dismissed for lack of jurisdiction.

APPEAL:

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

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

DATED/MAILED this 2nd day of March 2005.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Diane M. DeVries

Diane M. DeVries

This decision was put on the record

February 23, 2005

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

