

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TAMAR GERBER,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 51586</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 17, 2010, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by Charles T. Solomon, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

On March 8, 2010, the Board received Respondent’s Motion to Dismiss. At the hearing on March 17, 2010 the Board heard arguments on Respondent’s Motion.

The subject property is described as follows:

**1301 Lafayette Street, Denver, Colorado
Denver County Schedule No. 05022-16-015-000**

Petitioner protested the value assigned to the subject property for tax year 2007 on May 2, 2007. A Notice of Determination dated August 31, 2007 was issued by the Assessor’s Office. Petitioner did not appeal the Notice of Determination to the County Board of Equalization.

In 2009, Petitioner filed a petition for abatement/refund of taxes on the subject property for tax year 2007. The Denver County Board of Commissioners issued a decision dated June 16, 2009. Petitioner appealed that decision to this Board.

Respondent, referencing Section 39-10-114, C.R.S., contends that Petitioner is prevented from filing an abatement/refund for tax year 2007 because a protest was previously filed for 2007 and a Notice of Determination issued.

Section 39-10-114(1)(a)(I)(D), C.R.S. provides, “No abatement or refund of taxes shall be made based upon the ground of overvaluation of property if an objection or protest to such valuation has been made and a notice of determination has been mailed to the taxpayer pursuant to section 39-5-122”

Petitioner is requesting a value of \$600,000.00. The value assigned to the subject property on the Assessor’s Notice of Determination is \$708,200.00 for tax year 2007.

In Docket No. 50600, Petitioner protested the 2008 actual value of the subject property. In that matter the City and County of Denver, County Board of Equalization assigned a value of \$898,900.00 and the Board concluded to a value of \$780,550.00. The value of the subject property for tax year 2008 is higher than the value assigned for tax year 2007; therefore, the Board concludes that Petitioner’s abatement petition for tax year 2007 could not have been based upon an erroneous valuation for assessment claiming the subject property’s value should be the same for both tax years in the reassessment cycle.

The Board concludes that Petitioner’s petition for abatement/refund of taxes for tax year 2007 is based upon overvaluation, and therefore is prohibited under Section 39-10-114(1)(a)(I)(D), since Petitioner previously protested the value assigned to the subject property for tax year 2007.

The Board grants Respondent’s Motion to Dismiss.

ORDER:

The petition is dismissed.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

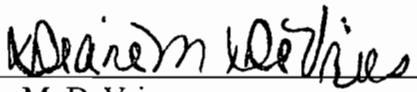
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 13th day of May 2010.

BOARD OF ASSESSMENT APPEALS

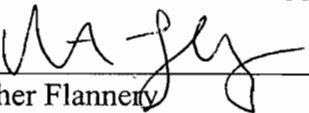


Diane M. DeVries



Lyle D. Hansen

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



Heather Flannery

