

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 60431
& 60532**

Petitioners:

HOWARD ENTERPRISES INC.,

v.

Respondent:

EL PASO COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER came before the Board of Assessment Appeals on August 28, 2012, Diane M. DeVries and MaryKay Kelley presiding. Raymond E. Howard appeared pro se on behalf of Petitioner. Respondent was represented by Steven Claffkey, County Law Clerk.

The subject property associated with Docket Number 60431 is located at 103 Manitou Avenue, Manitou Springs, Colorado and is identified by the Schedule Number 74044-11-046. The subject property associated with Docket Number 60532 is located at 107 Manitou Avenue, Manitou Springs, Colorado and is identified by the Schedule Number 74044-11-045. Petitioner is contesting El Paso County's 2011 valuation of the subject parcels.

On February 2, 2012, the Board issued an Order to Show Cause, ordering Petitioner to provide to the Board of Assessment Appeals a filing fee of \$101.25 and an entry of appearance by an attorney licensed to practice law in the State of Colorado.

On February 14, 2012, Mr. Raymond E. Howard filed a letter with the Board, stating that he was unable to retain an attorney in this matter. On February 29, 2012, the Board received a check from Mr. Howard for \$101.25; the payment was subsequently returned to Mr. Howard as the check was made out to the Colorado Department of Revenue instead of the Board of Assessment Appeals.

At the August 28, 2012 hearing Mr. Howard appeared pro se on behalf of Petitioner. No attorney licensed to practice law in the state of Colorado entered an appearance on behalf of Petitioner. Respondent moved the Board to dismiss the appeal due to Petitioner's failure to obtain an attorney for the representation of this appeal before the Board.

Pursuant to Section 13-1-127, C.R.S., if the property owner is an entity, it must appear before the Board under the representation of an attorney licensed in the State of Colorado unless (1) the entity is closely held; and (2) the amount of tax at issue for each appeal is less than \$10,000.

Petitioner in this matter, Howard Enterprises Inc., is not a closely held entity as it is owned by more than three owners. Accordingly, Petitioner is required by law to be represented by an attorney before the Board of Assessment Appeals. The Board does not have jurisdiction to waive the attorney representation requirement as it is mandated by the Colorado Statutes.

ORDER:

The appeal 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 of the respondent county, 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).

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 within thirty days of such decision 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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 4th day of September, 2012.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

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

Milla Crichton

Milla Crichton

