

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 74796

Petitioner:

BANK MIDWEST NA,

v.

Respondent:

WELD COUNTY BOARD OF COMMISSIONERS.

ORDER DISMISSING APPEAL

THIS MATTER came before the Board of Assessment Appeals on Respondent's Motion to Dismiss on March 27, 2019, Debra A. Baumbach and Diane M. DeVries presiding. Petitioner is protesting the 2015-2016 value of the subject property.

Subject property is described as follows:

**7251 20th Street, Unit A, Greeley, CO
Weld County Schedule No.: R1358002**

On February 20, 2019, Respondent filed a Motion to Dismiss. Respondent requested the Board to dismiss Petitioner's appeal pursuant to Section 39-10-114(1), C.R.S. as untimely filed. Respondent states that per Colorado law, Petitioner had 30 days from the date of the entry of the County Commissioner's decision to file an appeal with the Board of Assessment Appeals. Here, the County Commissioner's office entered, *e.g.* executed and mailed, a decision on Petitioner's appeal on June 22, 2018. Respondent provided documentary evidence in support that on June 22, 2018 the County Commissioner's decision was (1) mailed to Petitioner via certified mail; (2) mailed to Petitioner's Agent via United States Mail; and (3) e-mailed to Petitioner's Agent. Petitioner filed an appeal with the Board of Assessment Appeals on September 27, 2019, more than 30 days after the County Board of Commissioner's decision was executed and mailed. Therefore, Respondent argues that the Board of Assessment Appeals is without jurisdiction to hear Petitioner's untimely appeal.

In response, Petitioner states that Petitioner's Agent did not receive adequate notice of the County Board's June 22, 2018 decision.

Pursuant to Section 39-10-114.5(1), C.R.S., if the Board of County Commissioners denies a petition for abatement of taxes in whole or in part, the petitioner may appeal to the Board of Assessment Appeals within 30 days of the entry of such decision. Compliance with this 30-day statutory time limit is a jurisdictional requirement. *Ward v. Douglas County Board of Commissioners*, 886 P.2d 310, 311 (Colo. App. 1994). Per Colorado law, the County Board needs only mail a notice to taxpayer. *Havana LLC v. Arapahoe County Board of Equalization*, 961 P.2d 604 (Colo. App. 1998).

The Board finds that under the facts presented, Petitioner's appeal to the Board of Assessment Appeals was untimely filed and the Board, therefore, is without jurisdiction to hear this matter.

ORDER:

The petition is dismissed. The hearing previously set on July 18, 2019 is vacated.

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-nine 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-nine 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.

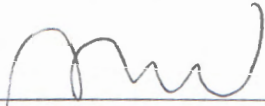
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

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

DATED and MAILED this 3rd day of April, 2019.

BOARD OF ASSESSMENT APPEALS

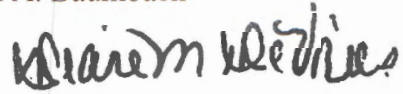
I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk



Debra A. Baumbach



Diane M. DeVries

