

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LATIN QUARTER III, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 48320</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 9, 2009, Karen E. Hart and Lyle D. Hansen presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2007 actual value increase of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**7500 East Harvard, Denver, Colorado
Arapahoe County Schedule No. 1973-28-3-16-001**

Petitioner received written notification from the Arapahoe County Board of Equalization (“CBOE”) dated August 6, 2007 informing Petitioner that their appeal for a reduction in value to \$6,510,000 was denied.

Petitioner subsequently received written notification from the CBOE dated August 10, 2007 informing Petitioner that the CBOE had granted an adjustment to the Arapahoe County Assessor’s value of \$7,659,000 to \$9,782,820.

Petitioner does not dispute the original CBOE value of \$7,659,000 for tax year 2007. Petitioner is protesting the increase of the original actual valuation to an adjusted actual valuation of \$9,782,820. Petitioner contends that this increase was accomplished by the CBOE clerk whose

action to change the assigned value *was not* reviewed and approved by the CBOE. Therefore the second notification and valuation should be vacated.

Respondent contends that the increase in the original actual valuation from \$7,659,000 to an adjusted actual valuation of \$9,782,820 occurred to correct a clerical error by the clerk of the CBOE.

Respondent's witness, Barbara LeBlanc, the Clerk of the Arapahoe County Board of Equalization, testified that the change in the original actual valuation of \$7,659,000 to an adjusted actual valuation of \$9,782,820 was recommended by the referee who reviewed the appeal. This recommendation was not communicated to CBOE in a document dated August 2, 2007. The document presented to the CBOE indicated the "before" value of the subject at \$7,659,000, and, indicated *erroneously* the "after" value at \$7,659,000 rather than the correct "after" value of \$9,782,820. The clerk mailed the notification dated August 6, 2007 indicating that the appeal had been declined. When the clerk discovered the clerical error of not increasing the actual valuation to the adjusted valuation, she mailed Petitioner the notification of the increase in value dated August 10, 2007. The clerk testified that it was her job to accomplish the correction of errors.

Sufficient probative evidence and testimony was presented to prove that the subject property should be valued at \$7,659,000 for tax year 2007, as assigned by the CBOE.

The Board concluded that while the clerk has the responsibility to correct errors, the increase in value was not communicated to the CBOE and, therefore, the CBOE was not aware of and did not authorize the increased adjusted actual valuation to the subject. There was no convincing evidence or testimony to indicate that the clerk has the ability to correct this error without action from the CBOE.

The Board upholds the original assigned value of \$7,659,000 for tax year 2007.

ORDER:

The petition is granted.

The Arapahoe County Assessor is ordered to correct his records to reflect the authorized CBOE value of \$7,659,000.00.

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 CRS § 24-4-106(11) (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 CRS § 24-4-106(11) (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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 28th day of April 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Lyle D. Hansen

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
Heather Flannery

