

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>POUDRE VALLEY HEALTH CARE, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>PROPERTY TAX ADMINISTRATOR.</p>	<p>Docket No.: 57721</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 29, 2012, MaryKay Kelley and Amy J. Williams presiding. Petitioner was represented by Rachel James, Esq. Respondent was represented by Robert Dodd, Esq. Petitioner is protesting the 2010 classification of the subject property.

Subject property is described as follows:

**Unit 4, Harmony Valley Condominiums,
2121 East Harmony Road, Fort Collins, Colorado
Larimer County Schedule No. 1598255**

The subject property consists of one commercial condominium unit within the twenty-six unit condominium complex identified as Harmony Valley Condominiums. The subject unit is 819 square feet. The subject unit is currently classified as taxable real property by the Larimer County Assessor’s Office as directed by the Colorado Property Tax Administrator. Petitioner is requesting that the subject condominium unit be classified as exempt real property.

Pam Johnson, Poudre Valley Health Care, Inc. Staff Accountant, testified for Petitioner, stating that she prepared the exemption application for the subject property. Ms. Johnson also identified the licensed care facilities that are located on the Harmony Campus; Harmony Campus being the common naming for the Harmony Valley Condominium development of which the subject is a part. She further described the subject unit and its current use as a gift shop called the Care Boutique. The Care Boutique is centrally located to the licensed facilities and patient navigation unit within the larger building making it a convenient location for patients, relatives and employees. Ms. Johnson described

the items sold at the Care Boutique which included specialized cancer care products such as skin care and make-up, mastectomy bras, relaxation products, natural wigs and hair pieces, turbans and clothing and bedding designed for comfort by cancer patients. More traditional gift shop-type products are also available at the Care Boutique. She testified that the Care Boutique is staffed by volunteers and cancer survivors.

During cross examination by Respondent's attorney, Robert Dodd, Ms. Johnson responded to questions that reported that the legal entity that operates the Care Boutique is Poudre Valley Health Care, Inc. and any revenues from the boutique are the revenues of Poudre Valley Health Care, Inc. She testified that the Care Boutique did not offer reduced fees for needy clients or sliding scale discounts based upon patient income. Additionally, there were no free items available at the boutique, everything was priced for sale.

Respondent's witness, Karen Dvorak, Property Tax Specialist, testified that she reviewed the application for exemption submitted by Petitioner, Poudre Valley Health Care, Inc. and that Poudre Valley Health Care Inc. submitted its health care facility license with the application. Ms. Dvorak explained that each assessor schedule number must apply for exemption individually and that no records or health care license specific to the Care Boutique were submitted. Ms. Dvorak further testified that she visited the boutique and noted that the majority of products sold were traditional gift shop items and that the cancer care products offered could be found and purchased at other retail outlets in the area. Ms. Dvorak also testified that the Care Boutique was approximately five miles removed from the licensed care facility under which the boutique was seeking exemption.

Ms. Dvorak explained that she denied the exemption request as failing to comply with Section 39-3-108(1), C.R.S. as property owned and used as a licensed health care facility, or as a property used strictly for charitable purposes and cited the following reasons:

- The subject unit is not a licensed health care facility; the gift store use is not a licensable function;
- It is not used for strictly charitable purposes;
- The Care Boutique use is not a function traditionally taken on by government at public expense;
- The property could be considered similar to a gift shop located in a hospital. As a gift shop is usually imbedded in a larger facility, the use is insignificant compared to the whole and generally does not exceed the 0.50 percent use necessary to qualify for partial taxation within the larger hospital facility. As the subject property is a single condominium unit and not located in or near the qualifying hospital facility, the exemption must be considered solely for the Care Boutique use.

The Board reviewed the relevant statutes and finds that the Care Boutique use does not qualify as a function/use that is essential to the operation of said licensed health care facility, nor is the square footage insignificant enough to fall below the 0.50 usage percentage of overall square footage which would qualify the subject unit for exemption based upon the rounding convention used by the Property Tax Administrator.

Therefore, Respondent presented sufficient probative evidence and testimony to demonstrate that the subject condominium unit is correctly classified as taxable for tax year 2010.

ORDER:

The Petition is denied.

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).

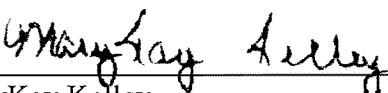
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 27th day of March, 2012.

BOARD OF ASSESSMENT APPEALS



MaryKay Kelley



Amy J. Williams

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



Milla Crichton

