

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HAYDEN INVESTMENT COMPANY, L.L.C ,</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 60573</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 4, 2012, Debra A. Baumbach and Brooke B. Leer presiding. Petitioner was represented by James R. Martin, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2009.

Subject property is described as follows:

**Vacant land west of I-70 and the C-470 interchange,
Jefferson County, Colorado
County Schedule No. 191122**

The subject property consists of 8.068 acres of vacant land. The land is zoned I-2 and A-2. The property is bound by Rooney Road on the northeast and I-70 on the southeast.

The actual value assigned to the property for tax year 2009 is not in dispute. The sole purpose of the hearing was to determine whether the subject property was tax-exempt for 2009.

The evidence presented by Hayden Investment Company L.L.C. (“HIC”), Petitioner, included:

- Bargain and Sale Deed, entered between Hayden Investment Company, L.L.C. and the Jefferson County. The Deed was granted in connection with the settlement of a condemnation case, *Hayden Investment Company, L.L.C. v. Colorado Department of Transportation and Board of County Commissioners of Jefferson County*, Jefferson County District Court Case No. 08 CV478. Pursuant to the terms of the Deed, the parties agreed that

the date of taking of the subject property was March 12, 2008. The Deed was entered and dated as of February 3, 2011.

- Settlement Agreement, with an effective date of October 15, 2009, was also presented. The Settlement Agreement was entered between Hayden Investment Company and the Colorado Department of Transportation. One of the provisions of the Settlement Agreement included an instruction that the subject property's valuation date should be March 12, 2008. The taking date was determined to be the same as the valuation date, March 12, 2008. The agreement also referred to the fact that HIC had existing access to the property via the soccer field access road which connects to New Rooney Road as of the October 15, 2009 agreement.

Petitioner argues that the 2009 property taxes on the subject property should be abated because Petitioner no longer had the use of the property as of the date of taking - March 12, 2008. Petitioner indicated that the property became exempt from taxation as of the date of the taking, March 12, 2008. Petitioner also stated that Respondent paved portions of the property during 2009.

Respondent argued that Petitioner continued to use the property after March, 12, 2008. Respondent indicated that HIC had control and use of the property in 2009 as Petitioner's engineer performed ground water testing on the site during 2009. According to Respondent, Petitioner attempted to develop the property and applied for a well permit after the taking date. Contrary to Petitioner's testimony, Respondent argued that no paving of the subject took place in 2009.

The Board heard conflicting information at the hearing from the two parties concerning the use of the property in 2009. The Board reviewed all three cases that were mentioned by the parties at the hearing, including *Gunnison County v. Board of Assessment Appeals*, 693 P.2d 400 (1984), *Southworth v. Department of Highways*, 489 P.2d 204 (1971), and *Mesa Verde v. Montezuma County*, 831 P.2d 482 (1992). The Board found that the cases presented were only marginally relevant and distinguishable from the facts in this appeal.

Pursuant to Section 39-3-130, C.R.S., *Change of Tax Status of Property -- Effective Date -- Tax Liability*:

"Whenever any real property that was previously taxable becomes legally exempt from the levy and collection of property tax for any reason, the person conveying the property shall be relieved from all further tax obligations with respect to the real property on the date title thereto is conveyed by agreement or on the date title thereto is conveyed pursuant to a court order."

In this case, the Board found that the title was transferred from Petitioner, Hayden Investment Company, L.L.C. to Respondent, Jefferson County, on February 3, 2011. Accordingly, pursuant to Section 39-3-130, C.R.S., the subject parcel became legally exempt from taxation as of the date of the title transfer, *e.g.*, February 3, 2011. The Board concluded

that Petitioner is responsible for any taxes levied before the subject was deeded to the Jefferson County, including the taxes levied in the 2009 tax year.

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 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).

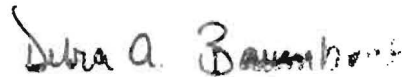
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 31st day of October, 2012.

BOARD OF ASSESSMENT APPEALS

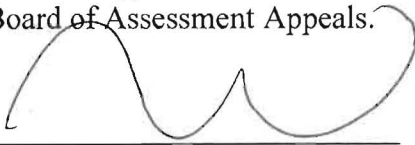


Debra A. Baumbach



Brooke B. Leer

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



Milla Crichton

