

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 61823

Petitioner:

AJOUR ENTERPRISES, INC,

v.

Respondent:

DENVER COUNTY BOARD OF COMMISSIONERS.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 11, 2013, Diane M. DeVries and James R. Meurer presiding. Mr. Nasser Ajour appeared pro se on behalf of Petitioner via a telephone. Respondent was represented by Charles Solomon, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for the 2011 tax year.

The subject property is described as follows:

**1645 East Evans Avenue
Denver, Colorado 80210
Denver County Schedule No. 05262-13-013**

On or about June 1, 2011, Petitioner filed a petition with the Denver Assessor's Office protesting the value assigned to the subject real property for the 2011 tax year. The Denver Assessor's Office denied Petitioner's appeal and a Notice of Determination was issued to that effect. Petitioner did not appeal the Notice of Determination to the Denver County Board of Equalization.

About a year later, Petitioner filed a petition for abatement or refund of 2011 taxes on the subject property with the Denver County Board of Commissioners. The Denver County Board of Commissioners denied Petitioner's petition by a letter dated October 24, 2012. Petitioner appealed the Denver County's denial to the Board of Assessment Appeals on or about December 5, 2012.

On June 4, 2013, Respondent filed Respondent's Motion to Dismiss requesting the Board to dismiss Petitioner's appeal pursuant to Section 39-10-114(1)(a)(I)(D), C.R.S., which states in relevant part:

No abatement or refund of taxes shall be made based upon the ground of overvaluation of property if an objection or protest to such valuation has been made and a notice of determination has been mailed to the taxpayer pursuant to section 39-5-122...

At the September 11, 2013 hearing before the Board of Assessment Appeals, Mr. Solomon on behalf of Respondent argued that Petitioner has protested the valuation of the subject property to the Denver County Assessor and a Notice of Determination was mailed to Petitioner pursuant to Section 39-5-122, C.R.S. Having received the Assessor's Notice of Determination, Petitioner did not appeal to the County Board of Equalization, abandoning his appeal. Mr. Solomon argued that Petitioner's appeal to the BAA must be denied for lack of subject matter jurisdiction pursuant to Section 39-10-114(1)(a)(I)(D), C.R.S.

Petitioner's representative, Mr. Ajour, confirmed that the information presented by the Respondent was accurate. Mr. Ajour informed the Board that the proper appeal procedures weren't followed because he was overseas at the time the appeal was filed; that his wife did not know the correct procedure for the appeal; that he did not obtain representation and did not know the process for the appeal.

The Board concludes that it does not have jurisdiction to hear this appeal pursuant to Section 39-10-114(1)(a)(I)(D), C.R.S. The testimony before the Board was undisputed that Petitioner received a Notice of Determination issued by the Denver County Assessor's Office. Petitioner did not protest the Assessor's Notice of Determination to the Board of Equalization by the July 15th deadline and the abatement process upon the ground of overvaluation was not available to Petitioner. Accordingly, Petitioner's appeal is barred by Section 39-10-114(1)(a)(I)(D), C.R.S.

ORDER:

The petition 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 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).

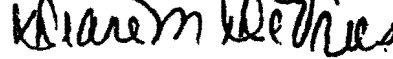
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 25th day of September, 2013.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

James R. Meurer

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



Milla Lishchuk

