

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.: 71496</b>
Petitioner:  <b>TIANYANG WANG, XIAOWEN HU,</b>  v.  Respondent:  <b>LARIMER COUNTY BOARD OF EQUALIZATION.</b>	
<b>ORDER DISMISSING APPEAL</b>	

**THIS MATTER** came before the Board of Assessment Appeals (BAA) on March 6, 2018, Diane M. DeVries and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by David Ayraud, Esq.

On November 8, 2017, Respondent filed Respondent’s Motion to Dismiss. Respondent argues that Petitioner’s appeal to the BAA should be dismissed as it was untimely filed.

Pursuant to Section 39-2-125(1)(c), a decision of a county board of equalization (“CBOE”) must be appealed before the BAA within 30 days from the entry of such decision. Timely filing is a statutory jurisdictional requirement for taking administrative appeals before the BAA. *Fleisher-Smyth v. Bd. of Assessment App.*, 865 P.2d 922 (Colo. App. 1993).

Respondent presented an Affidavit of Dean La Franchi, a deputy Clerk to the Board for the Larimer County, certifying that Larimer CBOE decision letter denying Petitioner’s appeal was sealed and stamped on August 15, 2017, and picked up by an employee of the United States Postal Service at or before 3:15 P.M. on August 15, 2017.

In response, Petitioner argued that although Larimer BOE decision was dated August 15, 2017, Petitioner did not receive the decision on August 15, 2017. Petitioner stated that he received the BOE decision letter several days after August 15, 2017 through USPS. According to Petitioner, the 30-day deadline should be counted from the date that Petitioner received the letter, not from August 15, 2017, when the BOE’s decision was mailed.

Statutory 30-day limitations period for filing of taxpayer’s petition with state Board of Assessment Appeals contesting decision of county board of equalization begins to run on date that BOE mails its decision to taxpayer. *Tri-Havana Limited Liability Co. v. Colorado Board of*

*Assessment Appeals*, 961 P.2d 604 (Colo. App. 1998) (emphasis added). A letter properly mailed is presumed received by its addressee. *Utah Motel Associates v. Denver Cnty. Bd. of Comm'rs*, 844 P.2d 1290 (Colo. App. 1992).


Respondent presented an affidavit of its employee certifying that the notice of decision by the BOE was dated and mailed to Petitioner on August 15, 2017. This evidence was not controverted by Petitioner. Therefore, the statutory deadline to file an appeal before the BAA was September 14, 2017. Petitioner mailed paperwork to the BAA indicating its intent to appeal the BOE's decision in an envelope postmarked September 15, 2017, one day after the deadline for appealing the BOE's decision has expired.

**ORDER:**

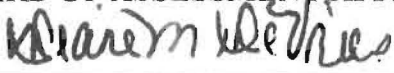
The Board is without jurisdiction to hear Petitioner's appeal. The appeal is hereby dismissed.


Dated this 11<sup>th</sup> day of April, 2018.

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

  
Milla Lishchuk

**BOARD OF ASSESSMENT APPEALS**

  
Diane M. DeVries

  
Debra A. Baumbach