

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**  
1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 75456**

Petitioner:

**WESTCLIFF LLC,**

v.

Respondent:

**JEFFERSON COUNTY BOARD OF  
COMMISSIONERS.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals (“the Board”) on December 9, 2019, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Harry C. Elder, Listed Member for Westcliff, LLC. Respondent was represented by Rachel Bender, Esq.

Petitioner is seeking an abatement for Schedule Number 300012199 for tax years 2017 and 2018.

Pursuant to Section 39-10-114(1)(a)(I)(D), C.R.S., “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...”

In this case, Petitioner protested the 2017 and 2018 valuation of the subject property and the Assessor issued notices of determination for both 2017 and 2018 tax years. Respondent provided a copy of the 2017 notice of determination which was issued on August 8, 2017 as well as the 2018 notice of determination which was issued on August 1, 2018.

Respondent argued that since the protest was previously filed for 2017 and 2018 tax years, Petitioner is barred from now seeking an abatement on the issue of valuation for tax years 2017 and 2018. *See Landmark Petroleum, Inc. v. Bd. of Cty. Comm’rs of the Cty. Of Mesa*, 870 P.2d 610, 613 (Colo. App. 1993) (“for property tax years beginning in 1990 and thereafter, overvaluation claims under the abatement and refund procedure are prohibited if a taxpayer has previously challenged the valuation for that tax year under the protest and adjustment procedure”).

In response, Petitioner's witness argued that Respondent's legal position is moot because the Board's staff reviewed Petitioner's documentation, accepted Petitioner's appeal and scheduled this matter for a hearing. The witness testified that Respondent raised values illegally by 300% while his documentation indicates that the values decreased by 30% from 2017 to 2019.

The Board finds that Petitioner's abatement petition is barred pursuant to 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-nine 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-nine 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.

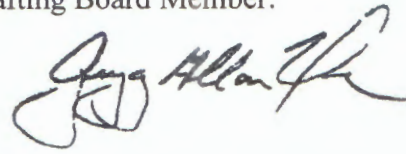
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 17<sup>th</sup> day of December, 2019.

**BOARD OF ASSESSMENT APPEALS:**

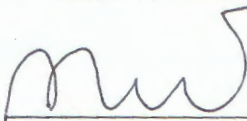
Drafting Board Member:



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Gregg Near

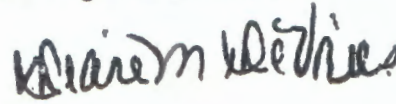
I hereby certify that this is a true  
and correct copy of the decision of  
the Board of Assessment Appeals.



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Milla Lishchuk

Concurring Board Member:



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Diane M. DeVries,  
*concurring without modification pursuant to  
Section 39-2-127(2), C.R.S.*

