

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>STEVE WEIL, DBA APOLLO PARK 301 LLC,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 76077</p>
<p>ORDER DISMISSING APPEAL</p>	

THIS MATTER came before the Board of Assessment Appeals (BAA) on December 3, 2019, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner appeared pro se. Respondent was represented by Katherine Parker, Esq.

Subject property is described as follows:

**442 S. Frontage Road E #301B
Vail, CO
Eagle County Schedule No.: R008412**

Arguments on Respondent’s Motion to Dismiss

Petitioner appeals Respondent’s 2018 valuation of the subject property. Respondent held a hearing on Petitioner’s appeal on July 11, 2019. Subsequently, Respondent issued a ruling denying Petitioner’s appeal on July 16, 2019. Petitioner appealed Respondent’s July 16, 2019 decision to the Board of Assessment Appeals (“the Board”).

On October 9, 2019, Respondent filed a Motion to Dismiss arguing that Petitioner’s appeal to the Board should be dismissed as it was untimely filed. Respondent contends that pursuant to statutory authority, Section 39-8-108(1), C.R.S., appeals to the Board must be taken no later than thirty days after the date of mailing of the Board of Equalization’s (“BOE”) decision. As the Eagle County BOE decision was mailed to Petitioner on July 16, 2019, per statute, Petitioner’s appeal to the Board was due by no later than August 15, 2019. Respondent points out that because Petitioner did not file an appeal to the Board until September 4, 2019, almost three weeks after the deadline, Petitioner’s appeal is untimely and should be dismissed.

In response, Petitioner states that on August 10, 2019 he spent hours trying to file his petition online but the BAA's website would not accept spreadsheets or Word documents and that the BAA's website is not intuitive or user friendly. Mr. Weil also testified that he sent messages to the BAA through the BAA's internal filing system but received no response.

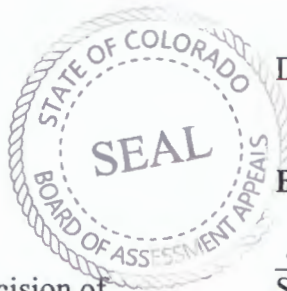
The Board's Findings

Pursuant to Section 39-2-125(1)(c), C.R.S., 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). 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).

The evidence presented before the Board was undisputed that Respondent mailed the denial letter to Petitioner on July 16, 2019. There was also no dispute that the statutory deadline for Petitioner to file appeal with the Board was August 15, 2019. The Board's records show that Petitioner did not create an online account until September 4, 2019 at 10:52 a.m. Further, the Board's internal filing system has no massaging capabilities; the first exchange of emails between Petitioner and the Board at baa@state.co.us was dated September 5, 2019. Petitioner did not provide any documentation supporting a timely attempt at filing.

ORDER:

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



Dated this 12th day of December, 2019.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

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

Milla Lishchuk
Milla Lishchuk

Debra A. Baumbach
Debra A. Baumbach