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TO: Board of County Commissioners

FROM: Frank Celico, Assessor

DATE: April 13, 2021

SUBJECT: Public Hearing on Petition for Abatement or Refund of Taxes; Abatement No. 21AR-022; Schedule Nos. 6518628, 6518632, 6518675; Legal Property Descriptions: Improvement Only: Space 6 Little B Mobile Home Park, Improvement Only: Space 21 Little B Mobile Home Park, Improvement Only: Space 22 Little B Mobile Home Park.

Background:

Pursuant to its Petitions for Abatement and Refund of Taxes, Petitioner, Kingdom Court, LLC, presents two arguments as to why it's above referenced subject properties (three manufactured homes located in Kingdom Park Court Mobile Home Park, Breckenridge, Colorado) are not taxable real property. First, Petitioner argues that the subject properties "are not real estate, they are personal property." Second, Petitioner argues that "Under Colorado law (§ 38-5-203, C.R.S), licensed manufactured home dealers [such as Petitioner] are exempt from property taxes on homes held as inventory for sale." The Assessor's Office has reviewed these arguments, discussed them with the Colorado Division of Property Taxation (DPT) staff and for the reasons stated below recommends that the BOCC deny Petitioner's Petitions for Abatement and Refund of Taxes in this matter.

Legal Authority:

Pursuant to § 39-5-202, C.R.S., "[M]obile homes shall be subject to ad valorem taxation under the provisions of articles 1 to 9 of this title as if they were real property but shall be subject to the provisions of article 10 of this title concerning the collection of taxes as if they were personal property."

Pursuant to § 39-5-203(3)(a), C.R.S., "The valuation for assessment of each mobile home shall be computed on the same basis as the valuation for assessment of all taxable property; except that mobile homes shall be exempt from property taxation while located on sales display lots of mobile home dealers and listed as inventories of merchandise by such mobile home dealers."

Pursuant to Assessor’s Reference Library (ARL) Volume 2, Section 3.13 “New or used manufactured homes owned by the dealer, which are situated on locations other than the dealer’s sales display lot are taxable.”

Discussion:

The Assessor’s Office does not dispute that Petitioner is a licensed mobile home dealer and the subject homes were listed as dealer inventory. The crux of the dispute in this matter is whether the subject mobile homes satisfy the requirement of being “located on sales display lots.” Pursuant to the statutes and ARL, if the homes are on a “sales display lot” then they are exempt from taxation as inventory, if not then they are subject to ad valorem taxation. Upon review of this specific matter internally and with DPT staff, the Assessor’s Office determined that the location of Petitioner’s subject mobile homes are not sales display lots. The homes are located on residentially zoned property (three separate mobile home lots in the Kingdom Park mobile home park in Breckenridge) where it is likely they will remain for occupancy not on commercially zoned property (eg. a dealership lot from which the homes must be transported to a location for occupancy). The amount of taxes at stake in this matter is minimal, however, the DPT believes this is a matter of statewide interest. The alleged inconsistent tax treatment of similar unsold mobile homes in Summit County mobile home parks by previous Summit County Assessors is not binding on the current administration.

Conclusion/Request:

The Assessor’s Office disagrees with Petitioner’s contention that the subject properties are located on “sales display lots”, however, because the term “sales display lot” is not specifically defined in the law, the Assessor’s Office believes that Petitioner raises a legitimate argument and encouraged Petitioner to file its petitions for abatement on this basis. The Assessor’s Office therefore respectfully requests that the BOCC deny the petitions for abatement in these cases in which case the Petitioner may appeal the BOCC’s decision for review and determination by the Colorado Board of Assessment Appeals, which review may result in better clarification of the statutory and ARL requirement.

Attachments: DPT Petition
 Petition Attachments