



OFFICE OF THE COUNTY ASSESSOR

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TO: Board of County Commissioners

FROM: Frank Celico, Assessor

DATE: July 6, 2021

FOR: BOCC July 13, 2021 Regular Meeting Consent Agenda

SUBJECT: Approval of Joint Motion to Hold Abatements in Abeyance and Toll Interest; Abatement No. 21AR-038; Property Schedule Nos. 2802816, 2802831, 2802835, 2802883, 2802941, 2802941, 2802967, 2803015, 2803021, 2803030, 2803032, 2803038, 2803050, 2803056, 6501422, 6501423, 6501428, 6501429, 6501431, 6501432, 6501433, 6501434, 6501435, 6501436, 6501440, 6501442, 6501443, 6501447, 6501448, 6501451, 6501460, 6501463, 6501464, 6501465, 6501466, 6501471, 6501473, 6501479, 6501480, 6501508, 6501511, 6501513, 6501514, 6501515, 6501516, 6501518, 6501520, 6501523, 6501524, 6501525, 6501526, 6501529, 6501530, 6501531, 6501540, 6501541, 6501543, 6516112, 6516116, 6516117, 6516121, 6516122, 6516124, 6516125, 6516126, 6516127, 6516129, 6516130, and 6516132.

Background:

Duff & Phelps, Inc., as tax agent for the owners of the 72 above listed property schedules in Tiger Run RV Park, filed petitions for abatement and refund of 2018 and 2019 taxes on or about December 31, 2020. All of the subject properties are lots in the Tiger Run RV Park with RV parking pads and accessory improvements, but no residential dwelling structures. The basis for all of these abatement petitions is the same, taxpayers claim their subject properties, which are classified by the Assessor's Office as non-residential land, qualify for residential land classification based on their use and occupancy by RVs for periods greater than 30 consecutive days and therefore should be assessed for property taxation at the discounted residential rate (7.20% in 2018 and 7.15% in 2019) instead of the standard 29% assessment rate. The Assessor's Office has reviewed and disagrees with taxpayers' position. Duff & Phelps made the same re-classification argument recently to the Colorado Board of Assessment Appeals (BAA) regarding RV parking pad lot classification in Spruce Lake RV Essential Group, LLC v. Larimer County Board of Equalization (BAA Docket No. 79419) and Elk Meadow RV Essential Group LLC v. Larimer County Board of Equalization (BAA Docket No. 79420). The BAA rejected Duff and Phelps reclassification argument in the Larimer

County cases and Duff & Phelps intends to appeal these cases to the Colorado Court of Appeals for review. In consideration of Duff & Phelps' agreement to waive abatement refund interest accrual in the Summit County Tiger Run cases while the Spruce Lake and Elk Meadow BAA decisions are being further appealed, the Assessor's Office agreed to join Duff & Phelps in the attached Joint Motion to Hold Abatements in Abeyance and Toll Interest (Joint Motion), which has been reviewed and approved by the County Attorney's Office.

Legal Authority:

Pursuant to § 39-1-113(1.7), C.R.S., "Every petition for abatement or refund filed pursuant to [section 39-10-114](#) shall be acted upon pursuant to the provisions of this section by the board of county commissioners or the assessor, as appropriate, within six months of the date of filing such petition."

Pursuant to § 39-10-114(1)(b), C.R.S., "Beginning January 1, 2020, refund interest accrues [at a rate of 1% per month] from the date a complete abatement petition is filed or the date payment of taxes was received by the treasurer, whichever is later."

Discussion:

The Joint Motion is essentially an agreement to continue the BOCC's consideration of the Tiger Run abatement petitions until the legal matter is resolved through Duff & Phelps appeal of the Larimer County cases without incurring the cost of refund interest. Although the Assessor's Office believes the subject abatement petitions should be denied as a matter of law, the Assessor's Office believes the best course of action under the circumstances presented is to join Duff & Phelps in the attached Joint Motion because the legal matter has already been ruled on by the BAA in the Larimer County cases and is ripe for review by the Court of Appeals. If the Court of Appeals rules in favor of Larimer County, no abatements/refunds of taxes would be payable in the 72 Summit County Tiger Run cases. If the Court of Appeals rules against Larimer County, abatements/refunds of taxes would be payable in the 72 Summit County Tiger Run cases, but, pursuant to the attached Joint Motion, no interest would accrue on those abatements.

Conclusion/Request:

For the reasons herein stated, the Assessor's Office respectfully requests that the BOCC approve the attached Joint Motion to Hold Abatements in Abeyance and Toll Interest.

Attachments: Joint Motion to Hold Abatements in Abeyance and Toll Interest; BAA Orders in Spruce Lake RV Essential Group, LLC v. Larimer County Board of Equalization (BAA Docket No. 79419) and Elk Meadow RV Essential Group LLC v. Larimer County Board of Equalization

(BAA Docket No. 79420).