AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Abatement Hearing - Helen Nelson Revocable Trust

Action Requested: Other Hearing on petition for abatement of taxes

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Hearing on abatement petition for 2015. Assessor is recommending denial. Petitioner and agent must be notified in writing 7 days prior to hearing.

Fiscal Impact:

Submitted by: William Spicer **Submitter's Email Address:** wspicer@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok for agenda - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 11/9/2016 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 11/10/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 12/6/2016

Revised April 2015

PETITION FOR ABATEMENT OR REFUND OF TAXES

RO 30398

RECEIVED
JUL 14 2016
BY: In person

County: Gunnison

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: July 12, 2016
Month Day Year

Petitioner's Name: Helen O. Nelson Revocable Trust

Petitioner's Mailing Address: 2723 E. Central Avenue

Andover — City or Town
Kansas — State
67002 — Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
3435-000-04-007	Danni Ranch Estate 14, Gunnison County, Colorado
RO30398	

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) ---------- and 2015 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

See attached explanation on Exhibit A, which is incorporated herein. Tax rate should have been for residential not vacant. Valuation is not challenged.

Petitioner's estimate of value: $ as set by assessor (2015) and $ as set by assessor (2016)
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

_____ Daytime Phone Number ( )
Petitioner's Signature

By _____ Daytime Phone Number (970) 641-1903 ext 2
Agent's Signature*

***Letter of agency must be attached when petition is submitted by an agent.**

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: **Assessor's Recommendation**
(For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

☐ **Assessor recommends approval as outlined above.**

If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.

Tax year: _____ Protest? ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

Tax year: _____ Protest? ☐ **No** ☐ **Yes (If a protest was filed, please attach a copy of the NOD.)**

☑ **Assessor recommends denial for the following reason(s):**

PROPERTY WAS NOT PURCHASED UNTIL 5/1/2015. DOES NOT QUALIFY UNDER COMMON OWNERSHIP PROVISION FOR 2015

Assessor's or Deputy Assessor's Signature

15-DPT-AR No. 920-66/11

SCANNED

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY

(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. 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, § 39-1-113(1.7), C.R.S.

Section III: **Written Mutual Agreement of Assessor and Petitioner**

(Only for abatements up to $10,000)

The Commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of $10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original						
Corrected						
Abate/Refund						

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

_____ _____

Petitioner's Signature **Date**

_____ _____

Assessor's or Deputy Assessor's Signature **Date**

Section IV: **Decision of the County Commissioners**

(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:
Month Day Year

_____

_____

with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor _____ ***(being present--not present)*** and
Name

Petitioner _____ (***being present--not present***), and WHEREAS, the said
Name

County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board ***(agrees--does not agree)*** with the recommendation of the Assessor and the petition be ***(approved--approved in part--denied)*** with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

_____

Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County

this _____ day of _____, _____.
Month Year

_____

County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than $10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: **Action of the Property Tax Administrator**

(For all abatements greater than $10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby

☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

_____ _____ _____

Secretary's Signature Property Tax Administrator's Signature Date

EXHIBIT A TO PETITION FOR ABATEMENT OR REFUND OF TAXES BY THE HELEN O. NELSON REVOCABLE TRUST

The parcel that is the subject of this refund petition is adjacent to another parcel owned by the petitioner. The adjacent parcel is 3435-000-04-008, which is Danni Ranches Estate 16. This adjacent parcel is classified as residential and does, in fact, have a residence on it. The subject parcel is used as the yard and recreation area for the residential lot, which is heavily forested and does not have a substantial, open, outdoor area for large family activities. The primary purpose of the subject parcel is to provide recreational opportunities appurtenant to the single family residence. The subject parcel is consistently used in connection with the single family residence. This year alone, the subject parcel has been repeatedly used by the family for family activities. In the event that the residence is sold, the subject parcel will likely be sold with it.

Indeed, in 2015 the petitioners owned the parcel with the residence and intentionally purchased the adjacent, subject parcel so that it could be used for such purposes. It has been used for those purposes since the purchase.

Accordingly, the subject parcel should have been, and should continue to be, classified as residential. *Fifield v. Pitkin Cty. Bd. of Comm'rs*, 2012 COA 197, ¶ 11, 292 P.3d 1207, 1209 (holding that, "land on a parcel contiguous to another commonly owned parcel with a residential dwelling unit need only be used as a unit in conjunction with that residential dwelling unit (or associated residential improvement) to qualify as residential land.")

Petitioner is only requesting that this tax classification change for tax years 2015 and forward, resulting in a refund of taxes paid for tax year 2015.

The subject parcel is important to the local wildlife, as shown by the enclosed photograph, and the petitioner intends to use it as open space contiguous and in connection with the existing residential lot so that it may also be available for wildlife habitat.

Helen O. Nelson Revocable Trust
2723 E. Central Avenue
Andover, Kansas 67002

Gunnison County Assessor
221 N. Wisconsin St., Suite A
Gunnison, CO 81230

July 12, 2016

Dear Gunnison County Assessor,

I hereby authorize Marcus Lock, Jacob With and the law firm of Law of the Rockies to prepare, file, submit and otherwise prosecute on my behalf petitions for abatement of taxes and petitions for refund of taxes relating to my property in Gunnison County, Colorado for all tax years, including without limitation Danni Ranch Estate 14, Gunnison County, Colorado which has the account number R030398 and parcel number 3435-000-04-007. This letter is my letter of agency and empowers Marcus Lock, Jacob With and the law firm of Law of the Rockies, as my agent, to sign on my behalf any and all petitions for abatement of taxes and any and all petitions for refund of taxes for any and all real property that I own in Gunnison County for any and all tax years.

Sincerely,

Helen O. Nelson Revocable Trust

By: _____
Ken Nelson, Trustee

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