AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Petition for Abatement or Refund of Taxes; Bywater

Action Requested: Other Hearing on Abatement Petition

Parties to the Agreement:

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

Summary:

Petitioner is seeking abatement of 2019 taxes on seven affordable housing lots in Paradise Park subdivision

Fiscal Impact:

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

Finance Review: (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\kweak Discharge Date: 12/15/2020

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok for BOCC decision. db 12/10/20

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/10/2020 Certificate of Insurance Required

Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/15/2020

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 15 minutes

Agenda Date: 12/22/2020

Revised April 2015

Narrative for Bywater Abatement Hearing

History of Taxable Status

- Petitioner purchased seven deed restricted lots in Paradise Park subdivision from Town of Crested Butte on April 3rd, 2019.
- While owned by Town of Crested Butte, lots were statutorily exempt from property taxation.
- By statute, lots became taxable from date of conveyance to petitioner.
- Deeds were not processed by Assessor's Office in time for 2019 final certification, and were therefore added to the 2019 tax roll retroactively as omitted property.
- 2019 Special Notices of Valuation were mailed to petitioner on March 25th, 2020.
- Petitioner did not appeal, and properties were added to 2019 tax roll on August 5th, 2020. Shortly thereafter, Treasurer mailed 2019 tax notices to petitioner.
- Petitioner filed attached abatement petition for 2019 taxes on August 25th, 2020.

Valuation of Lots

- Assessor originally valued lots at $10 per square foot, based on sales of similar deed restricted lots in Paradise Park that occurred through June 30th, 2018.
- Petitioner claims that lots have no value, because they were deeded from the Town for nominal consideration.
- Conveyance from Town to petitioner was subject to contract to build affordable housing units and irrevocable repurchase option. Assessor contends that property has significant market value, and this value was taken into consideration within overall terms of agreement between Town and petitioner.
- To place no value on property would effectively exempt it from taxation, which is specifically prohibited by statute unless property is owned by an exempt entity or granted exemption by the Division of Property Taxation.
- On reviewing petition, Assessor noted that vacant lots in Paradise Park would have been eligible for subdivider discounting in 2019. This factor had not previously been calculated, because all vacant lots had historically been owned by the Town of Crested Butte and were therefore exempt. Applying subdivider discount to petitioners lots reduces 2019 value to $5.81 per square foot. Assessor recommends making this adjustment.

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: Gunnison

Date Received: RECEIVED AUG 25 2020 BY: email WS
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: 8 24 2020
Month Day Year

Petitioner's Name: Bywater LLC

Petitioner's Mailing Address: PO B 1490

Crested Butte CO 81224
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
32550226004, 32550223007	Paradise Park Block 76 Lots 1-6
32550223006, 32550226005	Paradise Park Block 77 Lot 10
32550223 7008, 32550223 7009	
3255 0223 6010	

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2019 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.)

Overvaluation of Vacant Lots

Petitioner's estimate of value: $ 0 (2019)
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.

Bywater LLC Daytime Phone Number (970) 922 9222
Petitioner's Signature

By _____ Daytime Phone Number (970) 922 9222
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 _____

	Actual	Assessed	Tax
Original			
Corrected			
Abate/Refund			

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 GUNNISON County authorize the assessor by Resolution No. 2011-42 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 _____

	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

_____

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

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: _____

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

SEE ATTACHED ORIGINAL FILING FROM PETITIONER

Section I: Petitioner, please complete Section I only.

Date: _____
Month Day Year

Petitioner's Name: BYWATER LLC

Petitioner's Mailing Address: _____

_____
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)
R042120, R042121, R042122
R042138, R042139, R042140
R042136

PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
_____
_____
_____

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year _____ 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.)

Petitioner's estimate of value: $_____ (_____)
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 (_____) _____
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 2019

	Actual	Assessed	Tax
Original	351,830	102,030	6,833.05
Corrected	204,390	59,270	3,969.37
Abate/Refund	147,440	42,760	2,863.68

☑ **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.)**

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

Assessor's or Deputy Assessor's Signature

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

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY
(Section III or Section IV must be completed)

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(Only for abatements up to $10,000)

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

Tax Year _____

	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

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 the within petition, is hereby
☐ Approved ☐ Approved in part $_____ ☐ Denied for the following reason(s):

Secretary's Signature _____ Property Tax Administrator's Signature _____ Date _____

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

Sales of Vacant Lots in Paradise Park Subdivision
July 2016 through June 2018

RECEPTIONNO	ACCOUNTNO	LEGAL	SALE DATE	SALE PRICE	SIZE	$/SF
653374	R072227	LOT 17 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	24-May-18	45000	4800	9.38
647836	R072211	LOT 1 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	24-Jul-17	65000	6000	10.83
646749	R072219	LOT 9 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	31-May-17	25000	2750	9.09
642200	R072222	LOT 12 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	22-Sep-16	30000	3125	9.60
642153	R072209	LOT 4 BLK 80 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	21-Sep-16	75000	6600	11.36
642155	R072213	LOT 3 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	21-Sep-16	30000	3000	10.00
642218	R072225	LOT 15 BLK 79 REPLAT OF BLKS 79 & 80 PARADISE PARK SUBD	21-Sep-16	60000	5400	11.11