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ADVANCE SHEET HEADNOTE
May 30, 2023

2023 CO 29

No. 22SC799, *Educhildren v. Cnty. of Douglas Bd. of Equalization* – Property Taxation – Unusual Conditions – Assessment Date – Commercial Property – Statutory Interpretation – COVID-19 – Public Health Orders.

In this case, the supreme court considers whether commercial taxpayers have a statutory right to compel county tax assessors to revalue their properties for 2020 when COVID-19 and the public health orders that followed in March 2020 allegedly decreased their property values. Applying the holding announced today in *1303 Frontage Holdings LLC v. Larimer Cnty. Bd. of Equalization*, 2023 CO 28, __ P.3d __, it concludes that they do not. The court further holds that (1) under section 39-1-104(11)(b)(I), C.R.S. (2022), a county tax assessor does not have discretion to revalue property in the middle of the intervening year, that is, the second year in the tax cycle, when an enumerated unusual condition occurs after the assessment date and (2) any qualifying unusual condition will be considered as part of the regular valuation process for the subsequent reassessment cycles. Accordingly, the supreme court affirms district court's order but on other grounds.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2023 CO 29

Supreme Court Case No. 22SC799

C.A.R. 50 Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 21CA1253

Douglas County District Court Case No. 20CV30909

Honorable Jeffrey K. Holmes, Judge

Petitioners:

Educhildren LLC; HW Lee Group LLC; Pembrookshire Investment LLC; Brett A Norden Irrevocable Trust; Bradley S. Norden Irrevocable Trust; Meridian Kings LLC; James S Thomas Separate Property Revocable Trust; Bridgestone Retail Operations LLC; Ready Mixed Concrete Company; Canvas Credit Union; Sierra Holdings LLC; Marolt Investment Group LLC; Texas Roadhouse of Parker LLC; Lawrence Construction Company; Main Street Professional Plaza LLC; Fawcett Group LLC; Clam Holdings LLC; Peerless Tyre Co; Tallio Investments Co 1 LLC; Wyldsky LLC; Loudeco LLC; 8381 SPL LLC; Park Meadows Mall LLC; AKM Family LLLP; 9910MTLLC; Mie Ward Infiniti; The Chateau in Castle Rock LLC; Roper LLC; Strawberry Hill Inc; Rocky Mountain Law Enforcement Credit Union; KBK Properties LLC; Eden Innovations LLC; Thomas J Rossiter; Virginia B Rossiter; ORS Park Inc; Fairs Properties LLC; Car Bis Co Park LLC; Shade Tree LLC; Shade Tree North LLC; 5555 Boatworks Drive LLC; 8808 South Colorado LLC; Titan Center LLC; Leuvano Investments LLC; North Dakota Holdings LLC; B Greenley Investments LLC; Harcus Holdings LLC; H&A Educational Enterprises LLC; E and T LI LLC; Caro Land Co II LLC; Caro Land Co LLC; SS Country Meadows LLC; Park Meadow Mall LLC; Herzman Niece's Exempt Trust; Wellington Resources LLC; Denver Aquatic Ventures LLC; Bernhard Baron; J&L Holdings LLC; and Fineline Investments,

v.

Respondents:

County of Douglas Board of Equalization (BOE) and Lisa Frizell, County of
Douglas Assessor.

Order Affirmed

en banc

May 30, 2023

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JUSTICE BERKENKOTTER delivered the Opinion of the Court, in which **CHIEF JUSTICE BOATRIGHT, JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE HART,** and **JUSTICE SAMOUR** joined.

JUSTICE BERKENKOTTER delivered the Opinion of the Court.

¶1 This is one of eleven similar cases filed by hundreds of commercial taxpayers in eleven Colorado counties. In each of these cases, the taxpayers seek a judicial remedy compelling their county’s tax assessor to revalue their properties for the 2020 tax year. Here, the taxpayers are the owners of more than sixty commercial properties in Douglas County. Like the taxpayers in the other counties, they assert that the COVID-19 pandemic and the orders issued by Governor Jared Polis, the Colorado Department of Public Health & Environment, and the Douglas County Health Department (collectively, “public health orders”) constituted “unusual conditions” under section 39-1-104(11)(b)(I), C.R.S. (2022), that decreased their property values for the 2020 tax year. The Douglas County taxpayers similarly contend that because the unusual conditions caused their property values to decrease, they have the statutory right to reassessment in 2020.

¶2 Today, we decide four cases addressing the application of the “unusual conditions” exception, § 39-1-104(11)(b)(I), to the circumstances that the COVID-19 pandemic created in Colorado during the 2020 property tax year. *See Larimer Cnty. Bd. of Equalization v. 1303 Frontage Holdings LLC*, 2023 CO 28, __ P.3d __; *MJB Motels*

LLC v. Cnty. of Jefferson Bd. of Equalization, 2023 CO 26, __ P.3d __; *Hunter Douglas Inc. v. City & Cnty. of Broomfield Bd. of Equalization*, 2023 CO 27, __ P.3d __.¹

¶3 In *1303 Frontage*, ¶ 65, the lead case in the quartet on the timing issue, we interpret article 1 of title 39 and conclude that the January 1 annual statutory assessment date cut-off applies to the “unusual conditions” exception. See § 39-1-104(11)(b)(I). Under that rule, for an unusual condition to compel a county tax assessor to revalue real property for an intervening year, the condition must have occurred before January 1 at noon of the intervening year. *1303 Frontage*, ¶ 65. In *1303 Frontage*, this meant that because the pandemic and the public health orders that followed, occurred in March 2020, *after* the January 1, 2020 assessment deadline, the Larimer County Tax Assessor was not required to revalue the Larimer County taxpayers’ commercial properties. *Id.* Thus, in *1303 Frontage*, the timing issue was dispositive. We hold that it is here too.

¶4 Applying our holding in *1303 Frontage*, we consider one identical and one related issue in this case: (1) whether the Douglas County Tax Assessor (“the Assessor”) has discretion to revalue properties when a purported unusual

¹ Whether the pandemic and the public health orders that followed constitute unusual conditions for the purpose of section 39-1-104(11)(b)(I) is not directly at issue in this case. We address that issue today in two other cases, *MJB Motels*, ¶ 2, and *Hunter Douglas*, ¶ 3, and we conclude that they don’t.

condition occurred during the intervening year, that is, *after* January 1, 2020; and (2) whether the Assessor can consider unusual conditions that occur outside the eighteen-month base period, from January 1, 2017, to June 30, 2018. The taxpayers also ask us to address the particular legal remedies available to them, but because our holdings on the first two issues are ultimately dispositive and this issue does not appear to be capable of repetition yet evading review or a matter of great public importance, we decline to do so.²

² We accepted jurisdiction under C.A.R. 50 to review the following issues:

1. Whether the district court erred in concluding, as a matter of law, that under C.R.S. Section 39-1-104(11)(b)(I) defendants had the discretion but were not obligated to revalue taxpayers' properties for tax year 2020 based upon unusual conditions occurring in 2020.
2. Whether the district court erred in concluding, as a matter of law, that under C.R.S. Section 39-1-104(11)(b)(I) any unusual condition that requires revaluation would have to arise during the base period for which the level of value was determined for the tax year in question.
3. Whether the district court erred in concluding, as a matter of law, that taxpayers were not entitled to the remedies they sought because: (a) Douglas was not required to perform a duty under C.R.S. Section 39-1-104(11)(b)(I) therefore Rule 106(a) relief (mandamus) was not available; (b) the district court was not authorized to remand the case to the Douglas County Assessor for revaluation under C.R.S. Section 39-8-108, (de novo relief); and (c) the taxpayers did not state a plausible claim for relief justifying declaratory judgment relief.

¶5 We conclude that under section 39-1-104(11)(b)(I) a county tax assessor may not properly revalue and reassess property when an unusual condition occurs after the January 1 assessment date for the intervening year in the reassessment cycle. *See 1303 Frontage*, ¶ 90. That is, an assessor does not have discretion to revalue and reassess property under these circumstances in the middle of a tax year. *Id.* We further conclude that an unusual condition that occurs after the January 1 tax assessment date is properly considered in the next tax year. This does not mean that the economic impact, if any, of COVID-19 and the public health orders that followed on real property in 2020 will not be considered; but rather any impact will be reflected in connection with the regular January 1, 2021 and January 1, 2023 tax assessment processes.

¶6 Accordingly, we affirm the district court’s order granting the Assessor’s motion to dismiss but on different grounds.

I. Background

¶7 Article X, section 3 of the Colorado Constitution establishes the framework for taxing real and personal property in our state. *See Lodge Props., Inc. v. Eagle Cnty. Bd. of Equalization*, 2022 CO 9, ¶ 27, 504 P.3d 960, 965. Following this constitutional prescription, the General Assembly codified a system for taxing real property in title 39, articles 1 through 14.

¶8 As part of Colorado’s property tax system, the legislature specified that all taxable real property “shall be listed, appraised, and valued for assessment” at noon on January 1 every year. § 39-1-105, C.R.S. (2022). This assessment date provides a fulcrum on which the entirety of the property tax valuation process relies. It enables assessors and taxpayers alike to meet an extensive schedule of statutory deadlines related to Colorado’s property tax assessment scheme, ultimately leading to the levy of property taxes by each county. This process is used by taxing authorities to help guide budgeting decisions and, ultimately, to pay for a wide range of costs and services from firefighting to road repairs.

¶9 Specifically, the January 1 assessment date functions as the nucleus for several essential functions of the tax system. First, the January 1 assessment date delineates the reassessment cycle. In section 39-1-104(10.2), the General Assembly created a two-year, or biennial, property tax reassessment cycle. *Thibodeau v. Denver Cnty. Bd. of Comm’rs*, 2018 COA 124, ¶ 9, 428 P.3d 706, 709. This means that real property values are assessed and calculated every two years, and that same assessment and calculation is the basis for property taxation for both years of the assessment cycle, absent a statutory exception. In other words, taxpayers pay the same amount of property tax for both years in the reassessment cycle.

¶10 To determine property values for the purpose of taxation, assessors look backward.³ § 39-1-104(10.2)(d). They gather data from an eighteen-month base period, which is the eighteen months before the July 1 preceding the first year in the reassessment cycle. *Id.* The assessors' goal is not to determine the actual value of the property on the assessment date, but rather to determine an actual value for the base period, which is applied as the "level of value" to the two years in the reassessment cycle. *Id.*

¶11 To illustrate, the assessors here gathered data from January 1, 2017, through June 30, 2018, to determine property tax valuations for the 2019 and 2020 tax years. And because Colorado's tax assessment system is biennial, with limited exceptions, taxpayers will pay the same amount of property tax in the 2019 and 2020 tax years. Thus, if a property is valued at \$400,000.00 as of January 1, 2019, its level of value as of January 1, 2020, will also be \$400,000.00.

³ The property tax levied on a parcel of commercial property is the product of the county mill levy, the commercial assessment ratio, and the level of value. *See* § 39-1-104(1.8); *see, e.g., Colorado Real & Personal Taxes*, Metro Denver Econ. Dev. Corp., <https://www.metrodenver.org/do-business/taxes-and-incentives/property-taxes> [<https://perma.cc/LQV3-HHJC>]. Because a taxpayer's tax liability is directly related to the level of value of their property and the other two factors are fixed for a given reassessment cycle, an increase or decrease in the level of value is the key factor in determining a taxpayer's property tax bill. *See* § 39-1-104(1.8); *see, e.g., Colorado Real & Personal Taxes*, Metro Denver Econ. Dev. Corp., <https://www.metrodenver.org/do-business/taxes-and-incentives/property-taxes>.

¶12 Property valuations in Colorado are ongoing. To illustrate, the chart below demonstrates our backward-looking property tax assessment scheme for the tax years 2019 through 2026:

Base Period to Determine Level of Value	Assessment Dates		Years in Reassessment Cycle
January 1, 2017 through June 30, 2018	January 1, 2019	January 1, 2020	2019 and 2020
January 1, 2019 through June 30, 2020	January 1, 2021	January 1, 2022	2021 and 2022
January 1, 2021 through June 30, 2022	January 1, 2023	January 1, 2024	2023 and 2024
January 1, 2023 through June 30, 2024	January 1, 2025	January 1, 2026	2025 and 2026

¶13 Second, predicated on the annual January 1 assessment deadline, both the statute and the Colorado Property Tax Administrator (“Administrator”) set deadlines for, among other things, (1) mailing notices of property valuation to taxpayers, § 39-5-121(1)(a)(I), C.R.S. (2022); (2) objecting to property tax assessments, § 39-5-122(1)(a), C.R.S. (2022); and (3) issuing notices of determination on their objections to taxpayers, § 39-5-122(2.5). *See also* 2 Colo. Div. of Prop. Tax’n & Dep’t of Loc. Affs., *Assessors’ Reference Library: Administrative & Assessment Procedures Manual* (“2 ARL”) 2.6–2.7 (Rev. Mar. 2023).

¶14 The legislature expressly tasked the Administrator with creating “manuals, appraisal procedures, and instructions . . . concerning methods of appraising and

valuing [property] . . . and . . . requir[ing] their utilization by assessors in valuing and assessing taxable property.” § 39-2-109(e), C.R.S. (2022); *see also Huddleston v. Grand Cnty. Bd. of Equalization*, 913 P.2d 15, 17–18 (Colo. 1996) (clarifying that the policies and procedures in the Administrator’s manuals are binding on county assessors). “Pursuant to that authority, the Administrator publishes the Assessor’s Reference Library (‘ARL’), a series of manuals addressing Colorado property tax assessment.” *Colo. Prop. Tax Adm’r v. CO₂ Comm., Inc.*, 2023 CO 8, ¶ 24, 527 P.3d 371, 376; *see Colo. Dep’t of Loc. Affs., Assessors’ Reference Library Manuals*, <https://cdola.colorado.gov/publications/assessors-reference-library-manuals> [https://perma.cc/W8UF-PDGH].

¶15 The biennial system has both advantages and disadvantages for taxpayers. Because the scheme is backward-looking, the taxpayers benefit from the lower valuations when their property values rise, which has generally been the trend in Colorado since 2018. *See generally Colo. Dep’t of Loc. Affs. & Div. of Prop. Tax’n, 2019 Forty-Ninth Annual Report to the Governor and the General Assembly* (May 1, 2020), <https://drive.google.com/file/d/1QyS0LzOrYeygHMH9dDfR2UYw0J5-apJ8/view?pli=1> [https://perma.cc/W2WQ-8Y99]. Conversely, when property values decrease, the county benefits.

¶16 But what happens when circumstances change after the base period that allegedly decrease taxpayers’ property values in the second year of the

reassessment cycle? That is, what happens when that change in circumstance occurs in the middle of a tax year? Section 39-1-104(11)(b)(I) provides an exception to the biennial tax scheme such that a county tax assessor revalues property under certain enumerated “unusual conditions”:

[A]n unusual condition . . . is limited to the installation of an on-site improvement, the ending of the economic life of an improvement with only salvage value remaining, the addition to or remodeling of a structure, a change of use of the land, the creation of a condominium ownership . . . , any new regulations restricting or increasing the use of the land, or a combination thereof, the installation and operation of surface equipment relating to oil and gas wells on agricultural land, any detrimental acts of nature, and any damage due to accident, vandalism, fire, or explosion.

§ 39-1-104(11)(b)(I). If and when this statutory exception applies in the context of the COVID-19 pandemic and the public health orders that followed underpins the questions presented that we decide today in this case and the three companion cases.

II. Facts and Procedural History

¶17 The petitioners in this case are fifty-eight taxpayers who own and pay taxes on sixty-five commercial properties in Douglas County. In February 2020, COVID-19 began to spread through Douglas County. The taxpayers allege that both COVID-19 and the government’s response to it resulted in decreased commercial activity that adversely impacted their businesses. And this, in turn, they allege, decreased their property values in 2020. Specifically, they assert that

the because COVID-19 was a “detrimental act[] of nature” and the public health orders issued in response to COVID-19 were “regulations restricting . . . the use of the land” they constituted unusual conditions under section 39-1-104(11)(b)(I). Further, the taxpayers contend that the unusual conditions triggered a statutory mandate, requiring the Assessor to revalue their properties and adjust their tax assessments downward for the 2020 tax year.

¶18 The taxpayers pursued the administrative remedies prescribed in sections 39-5-122 and 39-8-106, C.R.S. (2022), to protest their 2020 assessments. They first appealed to the Assessor, Liza Frizell, to revalue their properties for 2020. When the Assessor denied their request, they appealed to the Douglas County Board of Equalization. But the Board affirmed the Assessor’s denial.

¶19 After exhausting their administrative remedies, the taxpayers filed suit in district court on November 30, 2020. *See* § 39-8-108, C.R.S. (2022). They asserted three claims for relief: (1) a claim for mandamus under C.R.C.P. 106(a)(2); (2) a claim for de novo review under section 39-8-108; and (3) a claim seeking declaratory judgment under C.R.C.P. 57. Three months later, the County filed a motion to dismiss on the grounds that (1) the district court lacked subject matter jurisdiction, C.R.C.P. 12(b)(1), and (2) the taxpayers failed to state a claim on which relief could be granted, C.R.C.P. 12(b)(5).

¶20 To evaluate the taxpayers' claims, the district court first interpreted the provisions in title 39 pertinent to the taxpayers' complaint. In construing the statute, the court made several determinations.

¶21 First, the court concluded that section 39-1-104(11)(b)(I) "does not impose any requirements on the [A]ssessor" to revalue properties in either year of the two-year tax cycle due to unusual conditions. Instead, the court determined that section 39-1-104(11)(b)(I) granted the Assessor discretionary power to reassess properties when an unusual condition occurs outside the base period. The district court specified that the Assessor *may* consider an unusual condition but was not obligated to do so.

¶22 Then, the court indicated that section 39-1-104(11)(b)(I) only obligated the Assessor to revalue properties when an unusual condition occurred during the base period, or as pertinent here, from January 1, 2017, through June 30, 2018. So, the court reasoned, for the Assessor to consider the impact of the pandemic and related public health orders on the taxpayers' 2020 tax assessments, they had to occur between January 1, 2017, and June 30, 2018. And they did not.

¶23 Lastly, the district court turned to the taxpayers' stated claims for relief and rejected all three, granting the County's motion pursuant to C.R.C.P. 12(b)(5).

III. Analysis

¶24 To begin, we explain our jurisdiction to hear this case. Next, we turn to the applicable standards of review. Then, we review the rule we set forth today in *1303 Frontage* in the context of Colorado’s biennial tax scheme and apply that framework to the first two issues presented in this case.

A. Jurisdiction

¶25 Three divisions of court of appeals moved to determine jurisdiction for this case and the three companion cases that we decided today under sections 13-4-109 to -110, (b), C.R.S. (2022), and C.A.R. 50(a). The divisions requested that we accept jurisdiction of these four cases because (1) the issues in all of these cases raise important questions of state law on which this court has not opined, C.A.R. 50(a)(2); (2) these are issues of “significant public interest” because their resolution will have impact on taxpayers’ tax liabilities and county budgets, § 13-4-109(1)(a), C.R.S. (2022); (3) defining whether public health orders constitute restrictions on the use of land for the purpose of section 39-1-104(11)(b)(I) has significant importance to the interplay between public health and land use, § 13-4-109(1)(b); and (4) the volume of cases necessitates a supreme court pronouncement to ensure fair and consistent rulings and to promote judicial economy, § 13-4-109(1)(c). We agreed and granted the motion for determination of jurisdiction and transferred all four cases to this court.

B. Standard of Review

1. Motion to Dismiss

¶26 In this case, we review the district court’s order granting Douglas County’s motion to dismiss. “We review a trial court’s ruling on a motion to dismiss de novo.” *Sch. Dist. No. 1 v. Masters*, 2018 CO 18, ¶ 13, 413 P.3d 723, 728. “In so doing, we ‘must accept all allegations of material fact [in the complaint] as true and view the allegations in the light most favorable to the plaintiff.’” *Id.* (alterations in original) (quoting *Coors Brewing Co. v. Floyd*, 978 P.2d 663, 665 (Colo. 1999)). Additionally, as an appellate court, we have discretion to affirm the trial court’s dismissal on grounds that the trial court did not rely on. *See Moody v. People*, 159 P.3d 611, 615 (Colo. 2007).

2. Statutory Interpretation

¶27 This matter also poses issues of statutory interpretation. “We review de novo issues of statutory interpretation.” *Mook v. Bd. of Cnty. Comm’rs*, 2020 CO 12, ¶ 24, 457 P.3d 568, 574. Our principal goal is to effectuate the legislature’s intent. *Id.* To do this, we “read a statutory scheme as a whole, ‘giving consistent, harmonious, and sensible effect to all of its parts,’” and we ascribe plain and ordinary meaning to its terms. *CO₂ Comm.*, ¶ 22, 527 P.3d at 376 (quoting *People in Int. of A.C.*, 2022 CO 49, ¶ 10, 517 P.3d 1228, 1233). If the meaning of the statute is obvious, then our inquiry is complete. *Id.* But when the language is ambiguous,

we employ our tools of statutory interpretation, considering factors such as “the consequences of a given construction, the end to be achieved by the statute, and legislative history.” *Bostelman v. People*, 162 P.3d 686, 690 (Colo. 2007). We avoid constructions that would yield illogical or absurd results. *A.C.*, ¶ 10, 517 P.3d at 1233–34.

¶28 Our rules of statutory construction also apply when we interpret administrative regulations. *CO₂ Comm.*, ¶ 22, 527 P.3d at 376. While we may afford deference to an agency’s reasonable interpretation of a statute that it is charged with administering, we are not bound by it. *Dep’t of Revenue v. Agilent Techs., Inc.*, 2019 CO 41, ¶ 16, 441 P.3d 1012, 1016–17.

C. 1303 Frontage Rule Defining the Timing of an Unusual Condition Under Section 39-1-104(11)(b)(I)

¶29 In *1303 Frontage*, ¶ 65, which we also decide today, we conclude that the Larimer County taxpayers had no statutory right to revaluation of their commercial properties in the middle of the 2020 tax year. In so concluding, we emphasize that for an unusual condition to trigger a revaluation for the intervening year under section 39-1-104(11)(b)(I), that condition must have occurred *before* the January 1 assessment date for that even-numbered tax year—there, January 1, 2020. *1303 Frontage*, ¶ 65. We draw this conclusion for two reasons.

¶30 First, we explain that title 39 defines the assessment date as January 1 at noon and that deadline applies to all provisions in the statute unless the General Assembly explicitly provides an exception. *Id.* at ¶ 48. Because the language of section 39-1-104(11)(b)(I) lacks such an exception, we decline to insert one. *1303 Frontage*, ¶ 52. And because it is undisputed that COVID-19 and the public health orders that followed occurred in March 2020 – well after the January 1 assessment date – we reason that the taxpayers had no statutory right to have their properties revalued for the 2020 intervening tax year. *Id.* at ¶ 65. Consideration of the economic impact of COVID-19 and the public health orders that followed, if any, we explain, would not be considered in the middle of the 2020 tax year, but rather during the 2021 tax year, consistent with the overarching January 1 annual assessment scheme laid out in section 39-1-105. *Id.*

¶31 Second, we interpret the language in section 39-1-104(11)(b)(I) in conjunction with legislative history and conclude that, for the purpose of this subsection, “intervening year” means the even-numbered tax years interposed between the odd-numbered reappraisal years except when the legislature expressly specifies otherwise. *1303 Frontage*, ¶ 65. In reaching this conclusion, we reject the Larimer County taxpayers’ principal contention that section 39-1-104(11)(b)(I) requires the Larimer County Tax Assessor to revalue

their properties in the middle of the second year in the tax cycle when an unusual condition occurs at any point *during* that tax year. *1303 Frontage*, ¶ 63.

¶32 We explain that the statutory language includes both the singular “year” and the plural “years” to allow for the county tax assessors to revalue properties fairly when the statute provides an express exception to biennial reassessment such that there is more than a single year that intervenes between reassessments. *Id.* at ¶¶ 51–55. Because none of these exceptions apply in *1303 Frontage*, we confine the term to mean the 366 days of 2020.⁴ *Id.* at ¶ 55. More broadly, we hold that the “unusual conditions” exception does not require same-year revaluation, but rather that unusual conditions, in keeping with the biennial tax system, are properly considered in the next tax year after they occur. *Id.* at ¶ 65.

D. The Assessor Did Not Have Discretion to Revalue Properties Under Section 39-1-104(11)(b)(I)

¶33 Now, we apply our timing rule in *1303 Frontage* to the first issue here. We are tasked with deciding whether the Assessor was statutorily required to revalue the taxpayers’ properties in 2020. We conclude she was not.

¶34 While the issue presented here is couched in different terms, the same reasoning applies. The district court determined that when there is an unusual

⁴ 2020 had 366 days because it was a leap year.

condition during the intervening year, the county tax assessor has the discretion to revalue the property but is not obligated to do so. Thus, the court concluded that the Assessor was not obligated to revalue the taxpayers' properties for the 2020 tax year. Both parties disagree but for different reasons.

¶35 The taxpayers contend that the district court erred because the Assessor was required by law to revalue their properties in the middle of the 2020 tax year. Specifically, the taxpayers argue that section 39-1-104(11)(b)(I) required revaluation because the plain language of the statute dictates that assessors are obligated to reassess properties when there is an unusual condition (which they construe as any time during the two-year tax cycle) and that administrative procedures reinforce that obligation.

¶36 Douglas County, on the other hand, argues that the Assessor did not have the discretion to revalue the taxpayers' properties for 2020. Rather, according to the County, the Assessor was prohibited from revaluing the properties because COVID-19 and the public health orders that followed (1) occurred after the January 1, 2020 assessment date of the intervening year and (2) the intervening year is limited to the 2020 calendar year. We agree.

¶37 As we hold in *1303 Frontage*, under section 39-1-104(11)(b)(I), the timing of an unusual condition for revaluing property for an intervening year is the threshold issue. *1303 Frontage*, ¶ 65. We now apply that rule.

¶38 This case is directly analogous to *1303 Frontage*. In both cases, the commercial taxpayers sought judicial review after their county tax assessors and boards of equalization denied their appeals for revaluation for the 2020 tax year. And in both cases, it is undisputed that the purported unusual conditions occurred after January 1, 2020, the annual statutory assessment date. Because we conclude in *1303 Frontage* that section 39-1-104(11)(b)(I) does not require assessors to revalue and reassess properties for the even-numbered intervening year due to unusual conditions that occur *after* the assessment date, we conclude that the Assessor cannot revalue the taxpayers' commercial property for the 2020 tax year when the alleged unusual condition began in February 2020.

¶39 In keeping with our rule in *1303 Frontage*, here we also reject the taxpayers' assertion that the "intervening year(s)" includes "both intervening years," or "the entire odd- and even-numbered years" between reassessments. *1303 Frontage*, ¶ 57. Because we define the intervening year, for purposes of section 39-1-104(11)(b)(I), as the even-numbered year between the odd-numbered reassessment years in *1303 Frontage*, ¶ 57, we do the same here. Any other interpretation would contravene the purpose of the statutory scheme and render its administration impracticable. *Id.* at ¶ 63.

¶40 For example, if we accepted the taxpayers' definition of intervening year, the assessment date would be superfluous because the county tax assessors would

be compelled to revalue property at any time during the two-year cycle when there was an unusual condition. Under that paradigm, it would be impossible for assessors throughout Colorado to comply with the statutory and administrative deadlines, *see supra* Part I, that are fundamental to the functioning of the biennial tax system.

¶41 Accordingly, we hold that the Assessor did not have a statutory duty to revalue the taxpayers' property in 2020, nor did she have the discretion to do so.

E. Property Revaluation for the Intervening Year Under Section 39-1-104(11)(b)(I)

¶42 Next, we apply our timing rule from *1303 Frontage* to determine when an unusual condition must exist to trigger a statutory revaluation for the 2020 intervening year.

¶43 The district court concluded that section 39-1-104(11)(b)(I) only obligates the county tax assessor to revalue property due to an unusual condition that occurs during the base period. Here, that means that the Assessor would have had a statutory duty to revalue the taxpayers' properties if COVID-19 and the public health orders that followed qualified as unusual conditions and had occurred between January 1, 2017, and June 30, 2018. Again, both parties disagree. We do too, for several reasons.

¶44 First, the plain language of the statute prescribes that an assessor considers unusual conditions that occur *after* the base period. Section 39-1-104(10.2)(d) states

that “‘level of value’ means the actual value of taxable real property . . . for the one-and-one-half-year period immediately prior to July 1 immediately preceding the assessment date.” Then, section 39-1-104(11)(b)(I) specifies that the valuation mechanism for the biennial tax scheme elucidated in subsection (10.2) is “not intended to prevent the assessor from taking into account, in determining actual value for the years which intervene between changes in the level of value, any unusual conditions” that affect the property values during the intervening year. In other words, the legislature intended for the county tax assessors to consider changes in value affecting the second year in the tax cycle under certain, enumerated circumstances.⁵ They could only do that by looking at changes *outside* the base period because any events affecting the base period would already be accounted for in accordance with the biennial reassessment scheme.

¶45 Indeed, section 39-1-104(11)(b)(I) is a legislative safety valve designed to protect taxpayers from certain limited, more current, enumerated conditions that affect their property values in the second year of the tax cycle that could not

⁵ In *1303 Frontage*, we discuss at length the General Assembly’s use of the phrase “years which intervene” as compared to the phrase “intervening year.” *1303 Frontage*, ¶¶ 51–57. Because the seeming conflict in this language is addressed in detail in *1303 Frontage* and is not relevant to the district court’s holding regarding the base period, we do not address the seeming conflict here.

otherwise be accounted for.⁶ For this reason, the statutory language compels assessors to account for changes in value *after* the base period rather than constraining them to the base period. Were we to conclude otherwise, a revaluation would merely be redundant, and subsection (11)(b)(I) would be absurd. And we avoid constructions that lead to absurd results. *McCoy v. People*, 2019 CO 44, ¶ 38, 442 P.3d 379, 389.

¶46 Second, precedent instructs that the unusual condition triggering statutory property revaluation occur after the base period. In *24, Inc. v. Board of Equalization*, 800 P.2d 1366, 1369–70 (Colo. App. 1990), the court of appeals explained that for intervening tax years, the unusual conditions occurring “between base years” create an exception allowing for reappraisal. *See LaDuke v. CF & I Steel Corp.*, 785 P.2d 605, 608 (Colo. 1990) (discussing how section 39-1-104(11)(b)(I) provides an exception to the base year rules for changes in value which would “render[] application of the base year value unjust”); *see also Boulder Country Club v. Boulder Cnty. Bd. of Comm’rs*, 97 P.3d 119, 120 (Colo. App. 2003) (explaining that an unusual condition occurring on the property after the base year would have allowed

⁶ The statute also provides a safety valve for unusual conditions that would impact the first year of the tax cycle – those that occur in the six months following the end of the base period. For instance, an unusual condition that occurred in the fall of 2018 would trigger revaluation and, potentially, reassessment for the 2019 tax year.

revaluation for the intervening year). We need not deviate from that precedent here.⁷

¶47 We therefore conclude that for purposes of section 39-1-104(11)(b)(I), an assessor is not constrained by the base period. Instead, an assessor is required to consider unusual conditions that occur *after* the base period ends. Here, that means that the Assessor was required to consider unusual conditions that occurred between January 1, 2019, at noon and January 1, 2020, at noon to determine if it was necessary to revalue the taxpayers' properties for the 2020 tax year. And, in accordance with our holding in *1303 Frontage*, we conclude that if an unusual condition had occurred between those dates, the Assessor would have had a statutory obligation to revalue the taxpayers' properties.

¶48 We thus hold that county tax assessors must revalue taxpayers' properties in the even-numbered intervening year when an enumerated unusual condition occurs between January 1 at noon of the reappraisal year (the first year of the two-year tax cycle) and January 1 at noon of the intervening year (the second year of

⁷ Finally, we looked to the Administrator for guidance, but here we found none. Although volumes two and three reference unusual conditions multiple times, they do not explain the date range for considering an unusual condition for an intervening year. *See generally* 2 ARL; 3 Colo. Div. of Prop. Tax'n & Dep't of Loc. Affs., *Assessors' Reference Library: Real Property Valuation Manual* (Rev. Jan. 2023).

the two-year tax cycle).⁸ To illustrate, the chart below tracks the revaluation periods for the intervening years from 2020 through 2026:

Base Period	Intervening Year	Period When Unusual Condition Compels Statutory Revaluation for the Intervening Year
January 1, 2017 through June 30, 2018	2020	January 1, 2019 (noon) through (noon) January 1, 2020
January 1, 2019 through June 30, 2020	2022	January 1, 2021 (noon) through (noon) January 1, 2022
January 1, 2021 through June 30, 2022	2024	January 1, 2023 (noon) through (noon) January 1, 2024
January 1, 2023 through June 30, 2024	2026	January 1, 2025 (noon) through (noon) January 1, 2026

¶49 Because COVID-19 and the public health orders that followed occurred after the January 1, 2020 assessment date, the taxpayers have no statutory right to property revaluation for the 2020 intervening year.

IV. Conclusion

¶50 The timing of the taxpayers’ alleged unusual conditions did not trigger section 39-1-104(11)(b)(I)’s revaluation requirement. We emphasize that this does not mean that the economic impact of COVID-19, if any, on Colorado’s real

⁸ An assessor must revalue real property during the reappraisal year (the first or odd-numbered year of the tax cycle) when an unusual condition occurs in the six months that precede January 1 of that year. Thus, an unusual condition that occurred in October 2018 would be considered during the 2019 tax year.

property values will not be considered, rather any impact will be reflected in connection with the regular January 1, 2021 and January 1, 2023 tax assessment processes.

¶51 For the reasons stated above, we affirm the district court's order granting Douglas County's motion to dismiss but on different grounds.

JUSTICE BERKENKOTTER delivered the Opinion of the Court, in which **CHIEF JUSTICE BOATRIGHT, JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE HART, and JUSTICE SAMOUR** joined.