

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>JOHN R. ADAMS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PARK COUNTY BOARD OF EQUALIZATION.</b></p>	<p>▲</p>
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: John R. Adams Address: P.O. Box 13518 St. Petersburg, FL 33733 Phone Number: (727) 867-1085 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 37863</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 29, 2001, Mark R. Linné, Debra A. Baumbach, and Karen E. Hart presiding. Petitioner, Mr. John R. Adams, appeared pro se via teleconference call. Respondent was represented by Linda Michow, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**T08 R76 S31 SE4 160 W2SE4, E2SW4 31-8-76 B0437 P0601 STR 96  
2279 (Park County Schedule No. 16620)**

Petitioner is protesting the 2000 actual value of the subject property, a 160 acre tract of vacant land located in the Jefferson/Como area of Park County.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that he has leased the property for agricultural purposes over the years and the property should still be classified as agriculture. He also believes that the market value assigned by the Respondent is too high.

### **Respondent:**

Respondent contends that the subject property was reclassified as there was no agricultural use of the property in 2000, as well as no present use of the land. A field inspection revealed no evidence of farming or ranching.

## **FINDINGS OF FACT:**

1. Petitioner, Mr. John R. Adams presented the appeal on his own behalf.
2. Mr. Adams testified that his land has always been agricultural. He has had a contract with Jim Marvin since 1996. Mr. Marvin could graze a few animals on Petitioner's property as long as he did not overgraze. Mr. Marvin was the neighboring property owner and looked after the property.
3. Mr. Adams testified that Mr. Marvin had cattle on the subject property in 1997, 1998, and 1999. However, several cattle died in 1999, which Mr. Marvin felt might have been caused by a spring located on the subject property. Therefore, Mr. Marvin removed the cattle in the middle of 1999. He does not know if Mr. Marvin put cattle back on the property during 2000.
4. Mr. Adams had an appraisal of his property done in July of 1995. The indicated value was \$32,000.00. The Respondent has his property valued at \$146,750.00, and he does not believe the value increased that much since 1995. His current value is \$917.19 per acre. His property has no winter access. Half of the property is scrub oak.
5. Under cross-examination, Mr. Adams testified that he does not own any cattle. He did not want any overgrazing; he had previously had livestock damage done to his trees. He has had other leases, but he has always limited the grazing. Mr. Marvin had a lot of cattle, but did not graze more than 20 head of cattle on the subject property. Mr. Adams' main consideration was to have Mr. Marvin watch over his property. The lease was signed on April 1, 1996 and ended on April 1, 2001. He received \$100.00 each year, including the year 2000. Mr. Adams testified that Mr. Marvin sold his property in 2000. Mr. Adams is currently looking for someone else to lease the subject property.
6. Upon questioning from the Board, Mr. Adams testified that he received \$100.00 each year from Mr. Marvin, even if the property was not grazed.

7. Petitioner is requesting a 2000 actual value of \$920.00 to \$936.00 for the subject property, based on an agricultural classification.

8. Ms. Kristy Gould, Park County Chief Deputy Assessor, testified that she looked to see how the property was used as of January 1, 2000. Karen James from the Park County Assessor's Office did a physical inspection of the property. The Marvins owned the land in front of the subject property.

9. Ms. Gould testified that she has personally known the Marvin family for many years. She spoke with the Marvins' daughter and was told that their cattle were sold in 1998, except for 2 "pet" cows. This was confirmed with the secretary of the Cattlemen's Association, who also confirmed the 2 "pet" cows were located on Mr. Marvin's property, not the subject property.

10. Ms. Gould testified that she determined that the property should be reclassified to vacant land due to her information regarding Mr. Marvin, interviews with others, and other information. They have no information regarding any other leases on the property.

11. Under cross-examination, Ms. Gould testified that she went to school with the Marvins' daughter.

12. Upon questioning from the Board, Ms. Gould testified that the first field inspection was conducted on June 15, 2000. The second inspection was done a couple of weeks ago.

13. Respondent's witness, Ms. Karen James, Senior Appraiser with the Park County Assessor's Office, testified that in 1999 everyone with agricultural property was sent a questionnaire. Mr. Adams was mailed a questionnaire, but one was not returned. Based on no agricultural documentation in the file and no returned questionnaire, his classification was changed. It is common practice to change a property classification if there is no returned questionnaire and no agriculture information in their file.

14. Ms. James testified that seeing the lease would not change her opinion of the subject property classification. On June 15, 2000, she did a physical inspection of the subject property and did not see any evidence of agricultural use. The fences were in disrepair and would need to be repaired to use the property. She did not see any cow pies. She found no evidence of cattle whatsoever. She was on the property for about an hour during the first inspection. There is live water on the property. Photographs of the subject property were taken a couple of weeks ago.

15. Respondent's witness presented an indicated value of \$146,750.00 for the subject property based on the market approach.

16. Respondent's witness presented 3 comparable sales ranging in sales price from \$72,000.00 to \$87,000.00 and in size from 160 acres to 171.52 acres. After adjustments were made, the sales ranged from \$151,818.00 to \$191,193.00.

17. Ms. James testified that the three comparable properties used to establish the subject property value were adjusted for tree cover, size, live water, and proximity to national forest (BLM) land. The appropriate sales period is January 1, 1997 through June 30, 1998. The assigned value is \$146,750.00, which is an adjusted value established by the County Board of Equalization.

18. Under cross-examination, Ms. James testified that as of May 25, 2000, her knowledge was that the assessor's office did not have a copy of the lease. However, she has to look at the actual use of the property.

19. Upon questioning from the Board, Ms. James testified that the sales adjustments were arrived at through a multiple regression analysis. They had sales of properties with trees, but few were of a similar size as the subject. She admitted that she did not have the documentation for the actual adjustment amounts; the documentation she brought was for the wrong area. She calculated the lack of trees adjustment to be 41%. She admitted that the math on the adjustment grid appeared to be incorrect. She clarified that her adjustments were applied to the actual sales price, not the time adjusted sales price. She assumed that half of the subject property had heavy trees and half had no trees. The comparable sales have no trees and Sale 3 does not border BLM land.

20. In redirect, Ms. James testified that, based on her experience, the market shows that properties with trees sell for more money. The adjustments were arrived at based on sales of properties. They have a base value and the adjustments are updated every two years.

21. In recross testimony, Ms. James testified that she considers average tree cover to be where trees are interspersed though out the parcel.

22. Respondent assigned an actual value of \$146,750.00 to the subject property for tax year 2000.

23. In rebuttal, Mr. Adams testified that 5/8 of his parcel has no trees, 2/8 has spotted trees, and 1/8 has nice aspen trees. The fences have not been used since he has owned the property; they use electric fencing.

## **CONCLUSIONS:**

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000.

2. Petitioner had a valid lease for grazing in effect since 1996 and the lease was exercised through 1999. Petitioner's testimony was that, although he continued to receive lease payments each year, the subject property was actually grazed for a portion of 1999, was not grazed at all in 2000, and continues without use in 2001.

3. C.R.S. 39-1-102 (1.6) (a) (I) defines “Agricultural land” as land “... that was **used** the previous two years and presently **is used** as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section. C.R.S. 39-1-102 (106) (a) (I) (13.5) states “‘Ranch’ means a parcel of land which is **used** for grazing livestock for the primary purpose of obtaining a monetary profit.”

4. Although Petitioner received income from the lease, the Board believes that the overriding factor must be the actual **use** of the property. There was no agricultural **use** of the property in 2000, nor is it presently being used. Therefore, the Board affirms Respondent’s classification of the subject property as non-agricultural vacant land.

5. However, the Board does not affirm Respondent’s market valuation of the subject property. The Board carefully examined all of the sales provided by Respondent and found that there was a lack of market support for some of the adjustments. Also, there was no supporting documentation for the adjustments in the exhibits as well as a lack of testimonial support. In addition, the adjustments were made on the original sales prices rather than on the time adjusted sales prices.

6. The Board recalculated the adjusted sales prices using a standardized adjustment grid. The Board removed the BLM location adjustment from Sale 3, increased the live water adjustment on Sale 1, left intact the time adjustments as well as the size adjustment for Sale 2, and reduced the tree adjustment to 41% (as testified to by Respondent’s witness Ms. James). The resulting valuation range was \$127,348.00 to \$139,175.00.

7. The Board concluded that the 2000 actual value of the subject property should be reduced to \$130,000.00.

**ORDER:**

Respondent is ordered to reduce the 2000 actual value of the subject property to \$130,000.00

The Park County Assessor is directed to change his records accordingly.

**APPEAL:**

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 21<sup>st</sup> day of June, 2001.

BOARD OF ASSESSMENT APPEALS

  
Mark R. Linné

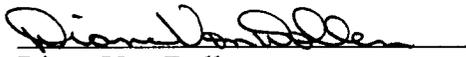
  
Debra A. Baumbach

  
Karen E. Hart

This decision was put on the record

**JUN 21 2001**

I hereby certify that this is a true  
and correct copy of the decision of  
the Board of Assessment Appeals.

  
Diane Von Dollen



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