

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RAY CUPPLES,</p> <p>v.</p> <p>Respondent:</p> <p>LINCOLN COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Ray Cupples Address: 420 Yanke Road Michigan City, IN 46360 Phone Number: (219) 879-5624 E-mail: Attorney Reg. No.:</p>	<p>Docket Number: 37877</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 30, 2001, Harry J. Fuller, Mark R. Linné, and Karen E. Hart presiding. Petitioner appeared pro se via teleconference call. Respondent was represented by Robert Safranek, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**W2W2SE 8 14 58
(Lincoln County Schedule No. 331108400048-R)**

Petitioner is protesting the 2000 actual value of the subject property, a 40-acre tract of vacant land located in Lincoln County, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property value increase is excessive. He cannot afford to pay the increased tax amount.

Respondent:

Respondent contends that the subject property is properly classified and valued as vacant land. The property does not qualify for an agricultural classification.

FINDINGS OF FACT:

1. Petitioner, Mr. Ray Cupples, presented the appeal on his own behalf.
2. Petitioner presented an indicated value of \$438.00 for the subject property, based on the previous year's assigned value.
3. Mr. Cupples testified that his value had been reduced in 1999 from \$442.00 to \$438.00. The tax year 2000 value was increased to \$10,560.00 and he does not understand why there was such an increase.
4. Mr. Cupples testified that he had a letter from a realtor, Mr. Dean Scranton, stating that his property was not worth more than \$3,500.00, due to its distance from electricity. The electrical lines are located approximately 1.25 miles east and 1.5 miles west of his property. It would cost \$25,000.00 to bring electrical service to the subject property. He has a sign on the property showing that it is for sale and the highest offer he has ever received was \$3,500.00.
5. Mr. Cupples testified that he has not been to the property in the last 3 years. It was classified as agricultural land when he purchased it and was listed as grazing land. Mr. Cupples testified that the acreage should be 38, not 40 acres.
6. Under cross-examination, Mr. Cupples admitted that the \$3,500.00 value was not listed in the letter as he had previously testified. He clarified that Mr. Scranton had verbally given him that market price. He testified that he believed Mr. Scranton was an appraiser. He has not leased the property in the past and it is not currently leased. It has been offered for sale since 1998.
7. Upon questioning from the Board, Mr. Cupples testified that he purchased the property in 1978 for \$7,000.00. He clarified that the property had been listed in 1998 for only 90 days.
8. Petitioner is requesting a 2000 actual value of \$438.00 for the subject property.

9. Respondent's witness, Ms. Estelle Thaller, Lincoln County Assessor and a Certified General Appraiser, presented an indicated value of \$10,560.00 for the subject property, based on the market approach.

10. Respondent's witness presented 7 comparable sales that had occurred during the years 1994 thru 1996. She also presented an additional 11 sales that occurred during 1997 and 1998. The sales ranged in average sales prices from \$176.00 per acre to \$298.00 per acre. There were no adjustments made to the sales.

11. Ms. Thaller testified that she is familiar with the subject property. She has viewed the property several times. There are many property classifications. To be classified as agricultural, it must be used by either the owner or a lessee. The subject property has not been used.

12. Ms. Thaller classified the subject property as vacant land and valued the property according to the appropriate time period, using market sales. The sales occurred within the same area as the subject property.

13. Regarding the letter from Mr. Scranton, Ms. Thaller pointed out that there was no information regarding what sales he used to determine his price estimate. Ms. Thaller testified that there has been very strong growth in the county, affecting the value of small tracts of land. Ms. Thaller believes there is no documentation to support Petitioner's position.

14. Under cross-examination, Ms. Thaller testified that it appeared that trespass grazing might have occurred on the subject property at some time in the past. There is no perimeter fencing for the subject property.

15. Upon questioning from the Board, Ms. Thaller testified that the comparable sales also lack electrical service. The sale properties are located approximately 1 mile away from the subject property. There are minimal roads in the area. There is no time adjustment necessary for the sales in this area. The area is an old ranch that was broken into tracts some years ago. The property was listed as 40 acres on the deed. The number of sale transactions varies from year to year.

16. Respondent assigned an actual value of \$10,560.00 to the subject property for tax year 2000.

CONCLUSIONS:

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

2. The Board found no supporting documentation for adjusting the acreage for the subject property to 38 acres from 40 acres. However, the Board notes that State Highway 94 appears to run along the south side of the subject property. The subject property may be subject to a road easement, which could account for the difference in acres as quoted by Petitioner.

3. The Board agrees that the subject property does not qualify for agricultural status and thus should be valued as vacant land. Testimony indicated that the only use to the property has been some possible trespass grazing, which would not qualify the property for agricultural classification.

4. However, the Board reviewed the map and sales that were testified to by Ms. Thaller. The Board notes that the majority of the comparable sales are located approximately 1 mile or more to the east of the subject property, which would appear to be nearer to electrical service than the subject property. The Board is persuaded that the distance to electrical service can impact the value of rural parcels. Therefore, the Board finds that the value for the subject property should be at the lower end of the sales range. The three sales located nearest to the subject property have a sales price range of \$176.00 to \$238.00 per acre. The Board notes that Respondent's witness indicated that no adjustment for time was indicated in this area. Giving equal weight to each of the 3 sales, the Board concluded that the subject property value should be reduced to \$200.00 per acre.

5. The Board concluded that the 2000 actual value of the subject property should be reduced to \$8,000.00, allocated to land.

ORDER:

Respondent is ordered to reduce the 2000 actual value of the subject property to \$8,000.00, allocated to land.

The Lincoln County Assessor is directed to change her records accordingly.

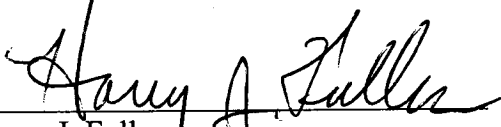
APPEAL:

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

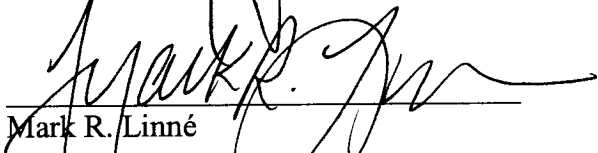
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 9th day of April, 2001.

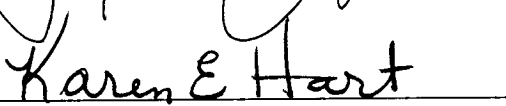
BOARD OF ASSESSMENT APPEALS



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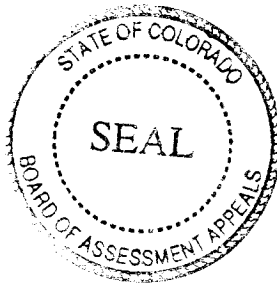
This decision was put on the record

APR 06 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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