

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHILCOOT, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Dan Mayer Elite Property Services Inc.</p> <p>Address: 5025 Boardwalk Drive #300 Colorado Springs, Colorado 80919</p> <p>Phone Number: (719) 594-6440</p> <p>E-mail:</p> <p>Attorney Reg. No.:</p>	<p>Docket Numbers: 40151 and 40152</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 3, 2002, Debra A. Baumbach and Steffen A. Brown presiding. Petitioner was represented by Dan Mayer, Agent, who appeared by telephone. Respondent was represented by Kelly Dunnaway, Esq., Assistant Douglas County Attorney.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Douglas County Schedule Numbers: 0356986 and 0256882 for
tax years 1999 and 2000**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 1999 and 2000. The subject property consists of two parcels of vacant land in Section 13,

Township 10S, Range 66W. Parcel 0358986 contains 36.22 acres and lies on the east side of State Highway 83. Parcel 0256882 contains 45.48 acres and lies on the west side of State Highway 83.

ISSUES:

Petitioner:

Petitioner contends that the subject properties are overvalued since the parcels should be classified as agricultural and not residential.

Respondent:

Respondent contends that the subject properties have been correctly valued using the market approach and are correctly classified by the Respondent as residential.

FINDINGS OF FACT:

1. The Board granted a motion to consolidate Docket Numbers 40151 and 40152.
2. Mr. Mayer, agent, appeared by telephone, as a witness and presented the appeal on behalf of Petitioner.
3. Mr. Mayer did not present sales or a market approach for the subject property. He testified the classification is in question. The subject parcels should be classified as agricultural and not residential.
4. Mr. Mayer testified that because the subject properties have a residential classification it has been a losing proposition with expenses, i.e. taxes, being eight times more than income, than if it had an agricultural classification.
5. Mr. Mayer testified the subject properties have been used as pasture and grazing land since 1993. He then testified to a pasture lease, Petitioner's Exhibit A, between Chilcoot, Inc. and Duncan Ross Co., for both parcels beginning May, 1999 and ending November, 2000.
6. Mr. Mayer testified to a letter dated December 27, 2001 from Howard L. Elliott to rent the west parcel, Schedule No. 0256882 for the year 2002, as shown in Petitioner's Exhibit A.
7. Under cross-examination, Mr. Mayer acknowledged he did not have personal knowledge that the subject properties were used as agricultural land in 1993. He was not aware of any paperwork requesting a classification change from residential to agricultural but testified he called for a change during an appeal in December, 2001. Mr. Mayer admitted that he only knew about the current lease with Mr. Elliott for the parcel located west of State Highway 83. He did not know if the other parcel located east of State Route 83 was leased. Mr. Mayer

admitted he had no objection to the Respondent's valuation on either parcel of land, only its classification as residential.

8. Petitioner is requesting a 1999 and 2000 actual value for the subject properties as follows:

Schedule Number	Actual Value
0356986	\$2,500.00
0256882	\$3,000.00

9. Respondent's witness, Ms. Louise McElroy, Certified Residential Appraiser with the Douglas County Assessor's Office, presented an indicated value for the subject properties, based on the market approach, as follows:

Schedule Number	Actual Value
0356986	\$108,660.00
0256882	\$136,440.00

10. Respondent's witness presented five comparable sales ranging in sales price from \$155,000.00 to \$614,300.00 and in size from 51 to 204.751 acres. After adjustments were made, the sales ranged from \$2,791.00 to \$5,528.00 per acre.

11. Ms. McElroy, testified that the cost and income approaches to value were inappropriate and may not be use in valuing residential property. Ms. McElroy used the market approach, placing most weight on comparable sales 1, 2 and 3 reconciling to \$3,000.00 per acre.

12. Ms. McElroy testified there was no documentation to reclassify the subject property. An application for reclassification is required and documentation is needed in order to grant agricultural status.

13. Ms. McElroy testified that a lease was not sufficient to reclassify the parcels to agricultural. Other supporting documentation was required including a physical inspection by county personal of the property.

14. Ms. McElroy testified that the lease between Duncan Ross Co. and the Petitioner for the years 1999 and 2000 could not be substantiated and a request for additional documentation had not been received. The letter from Mr. Howard S. Elliott was considered since he was found to be a verified rancher in Douglas County. Ms. McElroy testified their office will consider 2001 as the first qualifying year of use and the parcels may be classified as agricultural for January 2003.

15. Under cross-examination, Ms. McElroy testified the income approach would have been considered if the subject was agricultural, but it was not.

16. Respondent assigned an actual value to the subject properties for tax year 1999 and 2000 as follows:

Schedule Number	Actual Value
-----------------	--------------

0356986	\$108,600.00
0256882	\$136,440.00

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 1999 and 2000.

2. Based on its present classification, the Board agrees with both Petitioner, who had no objection to the valuation, and Respondent that the values placed on both parcels are appropriate.

3. The Board reviewed the evidence and testimony but was not persuaded by Petitioner’s evidence or testimony that the subject properties have been used for pasture and grazing since 1993. As it relates to Duncan Ross Co. lease, no additional documentation was presented. The Board was not convinced as to the validity of this lease.

4. The Board sympathizes with the Petitioner because of its residential classification, that the income does not cover the expenses. However, the Board is convinced that the Petitioner, who took title in 1999 submitted no application or additional documentation needed begin the process of reclassification to agricultural use. The Board does note that the Respondent has agreed to consider 2001 as the first qualifying year if future paperwork is submitted.

5. After careful consideration of all the presented evidence and testimony, the Board affirms the Respondent’s assigned values as follows:

Schedule Number	Actual Value
0356986	\$108,600.00
0256882	\$136,440.00

ORDER:

The petition is denied.

APPEAL:

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

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not make the aforementioned recommendation or result of Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of

Appeals for judicial review within 45 days from the date of this decision.

DATED and MAILED this 18th day of October, 2002.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Steffen A. Brown
Steffen A. Brown

This decision was put on the record

OCT 17 2002

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

Penny S. Bunnell
Penny S. Bunnell