

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JOHN T. AMEND,</p> <p>v.</p> <p>Respondent:</p> <p>SAN MIGUEL COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket Nos.: 45107 and 45108</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 22, 2006, Karen E. Hart and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Kevin J. Geiger, Esq. Petitioner is protesting the 2005 classification of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**228 Benchmark Drive and 230 Benchmark Drive, Mountain Village, CO
San Miguel County Schedule Nos. R1080087224 and R1080020224**

The subject property consists of two adjacent parcels of land located in Telluride Mountain Village Filing 6, Phase 2, further described as follows:

<u>Lot</u>	<u>Schedule Number</u>	<u>Site Size</u>	<u>Address</u>
224B	R1080087224	.394 Acre	228 Benchmark Drive
224A	R1080020224	.376 Acre	230 Benchmark Drive

FINDINGS OF FACT:

1. Docket numbers 45107 and 45108 were consolidated for the purpose of this hearing.
2. The parties stipulated to the 2005 actual value of the subject property as assigned by

Respondent at \$903,000.00 per lot.

3. Petitioner is requesting a change in classification from vacant land to residential. The subject properties have an underground irrigation system that is connected to Petitioner's residential parcel (Lot 225) and is used to irrigate wildflowers. If the subject property sold separately from the residential parcel, the irrigation system would be disconnected.

4. Respondent classified the subject property as vacant land, as there is no evidence of integrated use with the residential parcel.

5. Respondent assigned an actual value of \$903,000.00 to each lot for tax year 2005.

CONCLUSIONS OF LAW:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly classified for tax year 2005.

2. Property that is not improved with a residential dwelling may qualify for residential classification if it meets the criteria set forth in *Sullivan v. Board of Equalization*, 971 P.2d 675 (Colo. App. 1998). The subject property does not meet those criteria. The lots have separate schedule numbers. Each of the lots was listed for sale during the base period. The lots have no structural improvements; and by all appearances, the lots are vacant land. Petitioner's argument that the subject property is an integral part of the residential use of Lot 225 was not persuasive.

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 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 11th day of May 2006.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Judee Nuechter

Judee Nuechter

This decision was put on the record

MAY 10 2006

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

Penny S Lowenthal
Penny S. Lowenthal

