

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 45207

Petitioners:

DAVID REDGRAVE AND JEAN WIGHTMAN,

v.

Respondent:

LARIMER COUNTY BOARD OF EQUALIZATION.

INTERIM ORDER ON RETAINING JURISDICTION

THIS MATTER was heard by the Board of Assessment Appeals on May 29, 2007, Karen E. Hart and Diane M. DeVries presiding. Petitioners were represented by David Wyatt, Esq. Respondent was represented by Jeannine S. Haag, Esq. Petitioners are protesting the 2005 actual value of the subject property. Petitioners believe that the subject property should be classified and valued as agriculture dry farm land.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Gypsy Ridge on E County Road 58
(Larimer County Schedule No. 8812000024)**

Petitioners are protesting the 2005 actual value of the subject property. In 2005, the 35-acre vacant parcel was reclassified from agricultural to residential vacant land. Petitioners provided the Board with evidence of ongoing agriculture activities in 2002, 2003, and 2004. Petitioners' Exhibit A included pictures of hay being cut, swathed, and baled in 2002, 2003, and 2004.

Documentation shows that there were three cuttings of hay in 2002, 2003, and 2004. In 2002, and 2003, hay was harvested by Dave Wolfe, Wellington, Colorado, a local farmer, and shared on a 50/50 basis with Petitioners. Petitioners sold their hay share to Carol Shirey and Bruce Bainbridge.

In 2004, Brian Denney, a local farmer, cut the first cutting and sold Petitioner's hay with his hay. The remaining two cuttings in 2004 were harvested by Broadbent Custom Hay, Wellington, Colorado. Invoices were provided for August and September 2004 cuttings netting 562 and 455 bales respectively. Petitioners did not file a Schedule F form with the Internal Revenue Service.

Broadbent Custom Hay harvested two cuttings in 2005. Petitioners have not fertilized or reseeded the subject property. There is no water except for leakage from the irrigation canal at the edge of the property.

Petitioners are requesting that the subject property be classified and valued as agricultural dry farm land for tax year 2005.

Based on the market approach, Respondent presented an indicated value of \$190,000.00 for the subject property.

Respondent presented three comparable sales ranging in sales price from \$162,000.00 to \$200,000.00. All of the comparable sales were 35-acre sites.

Respondent believed that none of the parcels located in Gypsy Ridge qualified for agricultural classification based on physical inspections, owner supplied information, and homeowner covenants governing Gypsy Ridge.

Respondent's witness testified that since the subject property has not been seeded, fertilized, and watered, Petitioners are "mowing their yard" as required by covenant and secondarily are making a profit.

Respondent assigned an actual value of \$190,000.00 to the subject property for tax year 2005.

Petitioners presented sufficient probative evidence and testimony to prove that the tax year 2005 classification and valuation of the subject property were incorrect.

Colorado Revised Statute ("CRS") section 39-1-102(1.6)(a) reads (in pertinent part):

"Agricultural Land", whether used by the owner of the land or a lessee, means one of the following:

(I) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, 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, or . . .

Colo. Rev. Stat. § 39-1-102(1.6)(a)(I) (2006).

CRS section 39-1-102 (3.5) states: "'Farm' means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit." § 39-1-102(3.5).

The Division of Property Taxation defines dry farm land as “[c]ultivated lands used for growing crops that are not irrigated and rely on rainfall for all crop production . . .” 2 *Assessor’s Reference Library* 6.32 (2003).

The Board is convinced that Petitioners are doing more than “mowing their yard.” During the years in question, 2002, 2003, and 2004, Petitioners actively cut, baled, and traded or sold the hay produced on their 35-acre parcel.

Even though evidence was not provided by Petitioners as to the actual income received, the fact remains that the subject property was *used* for cutting, baling, and selling the hay crops. There is no dispute as to the cutting of hay; however, Respondent believes that it is for the purpose of satisfying homeowner covenants. The Board disagrees.

The Board concludes that the subject property meets the definition of a farm and should be classified and valued as agricultural dry farm land for tax year 2005 for property taxation purposes.

ORDER:

Respondent is ordered to reclassify the subject property to agricultural dry farm land for tax year 2005.

Respondent is ordered to reduce the 2005 actual value of the subject property consistent with an agricultural dry farm land classification.

The Board retains jurisdiction in this matter for three weeks from the date of this decision, by which time Respondent must notify the Board in writing as to the adjusted value of the subject property for tax year 2005. The Board will then issue a final order based on the adjusted value.

DATED and MAILED this 14th day of July 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

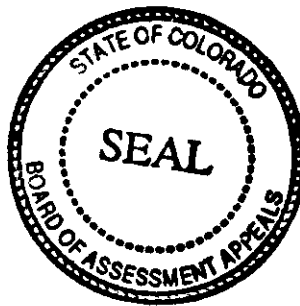
This decision was put on the record

JUL 13 2007

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

Heather Heinlein

Heather Heinlein



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>DAVID REDGRAVE AND JEAN WIGHTMAN,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45207</p>
<p>FINAL ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 29, 2007, Karen E. Hart and Diane M. DeVries presiding. The Board retained jurisdiction over this case until three weeks from the date of the Interim Order on Retaining Jurisdiction, at which time Respondent was to notify the Board in writing as to the adjusted value of the subject property under an agricultural dry land classification for tax year 2005.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Gypsy Ridge on E County Road 58
(Larimer County Schedule No. 8812000024)**

On August 1, 2007 the Board received Respondent's adjusted value, set at \$2, 338.00 for the subject property for tax year 2005. The Board finds this value to be reasonable.

The Board adopts all previous conclusions regarding the subject property, issued in the Interim Order on Retaining Jurisdiction, into this Final Order.

ORDER:

Respondent is ordered to reclassify the subject property as agricultural dry land for tax year 2005.

Respondent is ordered to reduce the actual value of the subject property to \$2,338.00 for tax year 2005.

The Larimer County Assessor is order 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 8th day of August 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

This decision was put on the record

AUG 07 2007

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

Heather Heinlein

Heather Heinlein

