

<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>LEON MOYER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ALAMOSA COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 46683</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 23, 2007, Karen E. Hart and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Jeffrey Motz, Esq. Petitioner is protesting the 2006 actual value and classification of the subject property.

**PROPERTY DESCRIPTION:**

The subject property is described as follows:

**19417 Ridge Drive, Alamosa, Colorado  
Deer Valley Meadows Lot 31, Block M, Unit 2  
(Alamosa County Schedule No. 541708011031)**

The subject property is a 1.26-acre site located in Unit 2 of Deer Valley Meadows, south of Highway 160, and approximately ten miles east of Alamosa. The subdivision, comprised of Units 1, 2, and 3, was platted in 1972 and is sold out. Site-built, mobile, and manufactured homes are permitted by zoning. Well and septic permits are required for Units 1 and 2. Lot owners in Unit 3 can request septic permits but cannot drill wells, having defaulted on assessments to the irrigation company many years ago. Respondent classified the subject property as vacant land and assigned an actual value of \$4,950.00.00 for tax year 2006. Petitioner is requesting a change from vacant to residential classification and an actual value of \$850.00.

Petitioner based his requested value on the \$850.00 price paid on September 20, 2004 for the subject property at a public auction.

Petitioner presented two comparable sales located in Unit 2 of Deer Valley Meadows. The first comparable sale consisted of Lots 28, 29, and 30 in Block M, which sold at auction for \$2,500.00 on September 20, 2004. The second comparable sale was Lot 1 Block Q which sold for \$500.00 on August 20, 2002. The Board does not consider an auction sale to be an arm's-length transaction because of the probability the seller was under undue stimulus and because liquidation sales typically do not reflect market value (Petitioner's Exhibit 4 reports 43 sites were available at auction). Respondent contended that Lot 1, Block Q was a half-interest sale, as only one of two grantors signed the warranty deed. The Board concurs. The Board does not consider either of Petitioner's comparables qualified sales. Additionally, the subject property sale and comparable auction sale cannot be considered as they occurred after the assessment level of value date of June 30, 2004.

Respondent testified that all lots in Units 1 and 2 of Deer Valley Meadows had historically been assigned a discounted value of \$2,248.00 because an 80% sellout had not been met. All of the lots in these two units have been valued at \$4,950.00 since tax year 2005, because sellout had occurred.

Respondent presented three comparable sales located in Unit 2 of Deer Valley Meadows that sold as arm's-length transactions within the base period of January 1, 2003 through June 30, 2004: Lot 25 Block F (\$8,000.00); Lot 14 Block Q (\$6,000.00); and Lot 13 Block AE (\$5,500.00). These sales prices supported Respondent's assigned value of \$4,950.00.

Petitioner contended that Respondent's comparable sales were not confirmed by recorded data. The Board disagrees: Lot 25's quit claim deed clearly shows consideration of \$8,000.00 although the documentary fee is incorrect; Lot 14's quit claim deed clearly shows consideration of \$6,000.00 although the documentary fee is absent; and Lot 13's warranty deed, despite the absence of a sales price, was confirmed by a TD 1000. According to Respondent, all three sales were qualified by the auditor.

Petitioner also argued that Respondent's three sales may have had wells, septic systems, and electricity reflected in their prices. Respondent testified that based on physical inspections, none of the three had utilities. Petitioner provided no evidence to the contrary.

Petitioner contended that the installation cost for electrical service is higher for lots further from electric lines. Petitioner's Exhibit 13, dated May 14, 2007, showed an installation cost of \$10,038.00 for electrical lines on the subject property. However, the Board cannot consider this estimate as it occurred after the assessment date of January 1, 2006. Two of Respondent's sales are not mapped, and distances from electric lines are unknown. Additionally, Respondent's witness testified that the market does not recognize a value difference for distance to electric lines. Petitioner did not provide market information that reflected market reaction or the cost of electrical service for Respondent's sales. Without such evidence, the Board is unable to assign loss in value, if any, to the subject property for lack of electrical service.

Respondent presented sufficient probative evidence and testimony to prove the subject property was correctly valued for tax year 2006.

Petitioner based his residential classification request on the presence of a 28-foot motor home that has been his residence since 2004. He testified that the wheels and axels were set on blocks, a generator and propane tank provide electricity and heat, and water for cooking and bathing is stored in on-site tanks. He testified regarding the presence of a toilet but declined to confirm its connection to a sewer or septic system. He refused to say whether the motor home has a title, if it is currently licensed, or if it has an engine or transmission. The Board told Petitioner that his failure to confirm these items would result in the Board's assumption that the engine was still located in the motor home. Straw bales topped with tin provide storage space. The subject property is fenced, and sand piles provide wind breaks.

Respondent was denied access to the subject property. Petitioner provided no proof of a permanently fixed structure, a septic system, electricity, or a well. Respondent's Exhibit A included a Notice of Violation issued to the Petitioner indicating the following violations: using a camping unit as a residence; and no approved individual sewage disposal system on site.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified for tax year 2006.

Colorado Revised Statutes ("C.R.S.") section 39-1-102(14.4) reads: "'Residential land' means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the resident improvements located thereon." Colo. Rev. Stat. § 39-1-102(14.4) (2006).

C.R.S. section 39-1-102(14.3), C.R.S. reads:

"Residential improvements" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family or families. The term includes buildings, structures, fixtures, fences, amenities and water rights which are an integral part of the residential use. The term also includes mobile homes as defined in section 38-29-102 (8) C.R.S., and manufactured homes as defined in section 42-1-102 (106) (b) C.R.S.

§ 39-1-102(14.3).

Note: C.R.S. section 38-29-102(8) has been repealed.

C.R.S. section 42-1-102(106)(b) reads:

“Manufactured home” means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

§ 42-1-102(106)(b).

The Board determined that Petitioner’s dwelling is not permanently affixed to the ground, has motive power, and was not designed for occupancy by persons for residential purposes. Petitioner’s motor home does not meet the definition of a manufactured home and therefore does not meet the definition of a residential improvement. Lacking a qualified residence, the subject property does not meet the definition of residential land.

**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 14<sup>th</sup> day of July 2007.

BOARD OF ASSESSMENT APPEALS

*Karen E Hart*

Karen E. Hart

*MaryKay Keley*

MaryKay Keley

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

