

<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>MICHAEL D. &amp; MARCIA FURBER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>LAS ANIMAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 47911</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 13, 2008, Karen E. Hart and Sondra W. Mercier presiding. Petitioner, Michael D. Furber, appeared pro se. Respondent was represented by Mary D. Newnam, Esq. Petitioner is protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Lot 244, Rancho La Garita Filing No. 8  
(Las Animas County Schedule No. 11177300-R)**

The subject is a 5 acre site located in the Rancho La Garita subdivision west of Trinidad. The subject is in a remote location, has road access, but no utilities.

Petitioner contends that Respondent did not give adequate consideration to potential negative affects of gas wells drilled within 1,000 feet of the subject. Petitioner cited increased truck traffic serving the wells and the potential for future pollution resulting from the wells located proximate to the subject. Based on the market approach, Petitioner presented an indicated value of \$5,000.00 for the subject property.

Petitioner discussed three comparable sales ranging in sales price from \$7,000.00 to \$15,750.00 and in size from 5 to 7 acres. These sales indicate a range of \$1,000.00 to \$3,150.00 per

acre. All three sales are located proximate to the subject, within the same portion of Rancho La Garita, and sold within the base period. Lots 177 and 126 are located on a main road and have utilities available. These lots sold for \$2,800.00 and \$3,150.00 per acre respectively. Lot 241 is located nearest to the subject, with similar access and no utilities available at the time of sale. Petitioner contends that this sale sets the upper limit of value for the subject, as it occurred prior to the drilling of gas wells in the area.

Petitioner is requesting a 2007 actual value of \$5,000.00 for the subject property.

Respondent presented an indicated value of \$9,000.00 for the subject property. This is equal to a value of \$1,800.00 per acre. Respondent did not provide a property specific appraisal, but relied on a mass appraisal analysis of 21 sales that occurred within three subdivisions that were reported to be similar to the subject.

Respondent assigned an actual value of \$9,000.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007. The Board was convinced that the subject was overvalued based on sales data presented by Petitioner. The sale of Lot 241, located proximate to the subject, was timely and offered similar features as the subject.

Respondent failed to give adequate consideration and analysis to the three sales most proximate to the subject. Respondent's witness testified that the Las Animas County Assessor's office had passed the SBOE valuation for assessment study (Audit) with good statistical results and that he could not use an analysis of three or four sales to determine the subject property value. The Board disagrees.

"Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determine using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

Equalization is not a proper means of evaluating the value of a specific property. While the statistical analysis of the county as a whole may meet audit requirements, such an analysis does not guarantee that each individual property is valued correctly. Lacking site-specific data from Respondent for the subject property, the Board must rely upon the site-specific data presented by Petitioner.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$5,000.00.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$5,000.00.

The Las Animas County Assessor is directed to change his records accordingly.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes (“CRS”) section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 28<sup>th</sup> day of May 2008.

BOARD OF ASSESSMENT APPEALS

*Karen E Hart*

Karen E. Hart

*Sondra W. Mercier*

Sondra W Mercier

This decision was put on the record

**MAY 28 2008**

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

*HA*

Heather Heinlein

