

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHARLES AND MARILYN REAVIS,</p> <p>v.</p> <p>Respondent:</p> <p>CHAFFEE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket Nos.: 48186 & 48196</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 29, 2008 and August 21, 2008, Sondra W. Mercier and MaryKay Kelley presiding. Petitioners appeared pro se. Respondent was represented by Jennifer A. Davis, Esq. Petitioners are protesting the 2007 actual value of the subject property.

Docket Nos. 48186 and 48196 were consolidated for purposes of this hearing.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

8990 County Road 164, Salida, Colorado
Chaffee County Sch. No. 3683352-00-078 (Docket No. 48186) – 40 vacant acres
Chaffee County Sch. No. 3683341-00-032 (Docket No. 48196) – 39.05 acres with residence

The subject properties consist of a residence and 79.05 acres classified as agricultural and used for dry grazing. Because the land is bisected by two fire districts, the 40-acre and 39.05-acre parcels have separate legal descriptions and are valued separately. The residence, located on the 39.05-acre parcel, is a 2,671 square foot ranch with a 1,914 square foot unfinished, walk-out basement and two-car garage built in 1999.

Respondent's assigned values and Petitioners' requested values for tax year 2007 are as follows:

Respondent's assigned values Petitioners' requested values

Docket No. 48186 (40 acres)

Land	\$ 4,193.00	\$ 254.80
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Docket No. 48196 (39.05 acres and residence)

Land	\$ 4,093.00	\$ 230.00
Residence	\$341,007.00	\$292,000.00

Valuation of Land

Both parties based their calculations on Petitioner-reported data (6.8 animal units): four expectant cows (4 animal units) and fourteen goats (14 X 0.20 or 2.80 animal units).

The National Resource Conservation Service (NCRS) publishes soil survey guidelines that include eight general classifications for land, Class I having the highest productivity and Class VIII being waste land. The NCRS assigned a classification of VII to the subject parcels (steep, susceptible to erosion, capable of producing vegetation for foraging, not suitable for cultivation). *See 3 Assessor's Reference Library: Land Valuation Manual 5.36-38 (2006).*

Petitioners based their calculations on the NCRS Class VII. The assessor re-assigned the parcels as Class VI based on Petitioners' Cameron Ditch water rights for stock watering and bottom ground irrigation. Class VI includes a grazing range of 10-15 acres per animal unit. Respondent's witness applied 10 acres per animal unit in his calculation.

Petitioners disagreed with Respondent's application of twelve months' grazing capability in Respondent's calculation, arguing that grazing is seasonal. Respondent's witness testified that the twelve-month calculation is adjusted for trampling and weather, resulting in capability of the land for one year. The Board agrees.

Petitioners presented sufficient probative evidence and testimony to prove that the subject's agricultural land was incorrectly valued for tax year 2007.

The Board is convinced that a limited water source exists and agrees with the assessor's assignment of Class VI soil. The water source is not significant enough, however, to assign ten acres per animal unit. Application at the higher end of the 10 to 15-acre range is more supportable, and a calculation using 15 acres results in a value of \$67.00 per acre or \$2,680.00 for the 40-acre parcel and \$2,616.35 for the 39.05-acre parcel.

Valuation of Residence

Mr. Reavis testified that the residence was valued by Respondent at \$290,028.00 for tax year 2005. The assessed value for tax year 2007 reflects an increase of 18%. In comparison, assessed values for five similar properties show a 0.5% increase. An increase of 0.5% for the subject property would indicate a value of \$292,000.00. Petitioners did not provide any comparable sales data to support this requested value for the residence.

Respondent's witness presented an indicated value of \$370,000.00 for the subject residence based on three comparable sales ranging in sales price from \$448,000.00 to \$500,000.00 and in size from 2,106 to 2,608 square feet. After land values were deducted, adjustments were made for construction, age, size, basement size, garages, decks, and fireplaces. Adjusted values ranged from \$363,899.00 to \$445,213.00. Sales 1 and 2 were weighed with value reconciled near mid point.

Respondent presented sufficient probative evidence and testimony to prove that the subject's residence was correctly valued for tax year 2007.

"Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). The Board gave little weight to the data presented by Petitioners demonstrating an increase in assigned value for the subject property, since it was not supported by actual sales of similar properties. The Board agreed with the comparable sales presented by Respondent and the adjustments made to those comparables. The Board agreed with the value assigned by Respondent for the subject's residence.

Conclusion of Value

The Board concluded that the 2007 actual value of the subject property should be reduced to \$2,680.00 for Docket No. 48186 and to \$343,623.00 for Docket No. 48196 (\$2,616.35 allocated to the land and \$341,007.00 allocated to the residence).

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$2,680.00 for Docket No. 48186 (land only) and to \$343,623.00.00 for Docket No. 48196 with \$2,616.35 allocated to land and \$341,007.00 allocated to improvements.

The Chaffee County Assessor is directed to change her 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 CRS § 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 § 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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 19th day of September 2008.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

This decision was put on the record

SEP 19 2008

MaryKay Kelley
MaryKay Kelley

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

Heather Flannery
Heather Flannery

