

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 48211**

Petitioner:

**WEST RIDGE GROUP, LLC,**

v.

Respondent:

**MONTROSE COUNTY BOARD OF  
EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on April 30, 2008, James R. Meurer and Karen E. Hart presiding. Petitioner was represented by Phillip Anselmo, an LLC member. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2007 actual value of the subject properties.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

**Montrose County Schedule Nos.**

<b>North Group</b>		<b>South Group</b>		<b>Outlot A</b>
<b>R0011445</b>	<b>R0011464</b>	<b>R0011408</b>	<b>R0011389</b>	<b>R0018893</b>
<b>R0011467</b>	<b>R0011446</b>	<b>R0011377</b>	<b>R0011379</b>	
<b>R0011487</b>	<b>R0011492</b>	<b>R0011387</b>	<b>R0011388</b>	
<b>R0011466</b>	<b>R0011471</b>	<b>R0011413</b>	<b>R0011378</b>	
<b>R0011486</b>	<b>R0011453</b>	<b>R0011400</b>	<b>R0011410</b>	
<b>R0011449</b>	<b>R0011472</b>	<b>R0011384</b>		
<b>R0011447</b>	<b>R0011493</b>	<b>R0011415</b>		
<b>R0011485</b>	<b>R0011454</b>	<b>R0011399</b>		
<b>R0011465</b>	<b>R0011473</b>	<b>R0011385</b>		
<b>R0011484</b>	<b>R0011494</b>	<b>R0011409</b>		

The subject properties consist of 36 parcels varying in size from 0.456 acres to 27.706 acres. Thirty five of the subject parcels are vacant except for some old granaries and an abandoned feedlot. On one of the vacant parcels, Schedule No. R0011453, 9.853 acres of the total 27.706 acres are currently classified as agricultural dry grazing land and valued at a total of \$80.00. The value and classification of these 9.853 acres does not appear to be in dispute. Schedule No. R0011446 has a one-story, 792-square-foot residence and various outbuildings valued at \$46,620.00. The classification and value of the residence and outbuildings does not appear to be in dispute.

Petitioner purchased the subject properties, known as Collins Farms, in two transactions during 2005. At the time of purchase, the assessor classified the properties as irrigation and dry farm land. The land was under lease for farming; crops raised on the subject properties included beans, pumpkins, and onions. For tax year 2006, Petitioner ceased irrigation. On November 10, 2006, the properties were leased to LRH, Inc. for grazing cattle. The lease expired on April 1, 2007.

Mr. Harry Percival, Certified Residential Appraiser with the Montrose County Assessor's Office, confirmed that irrigation ceased after the 2005 harvest season. Mr. Percival testified that approximately half of the subject properties are not farmable due to the adobe soils and lack of irrigation water.

Mr. Percival inspected the subject properties on an almost weekly basis throughout 2006 and through mid April 2007. In 2006, the properties were growing weeds and volunteer crops, and a portion of the properties was infested with a lot of prairie dogs. He observed cattle on the properties from mid-November to late December 2006. Mr. Percival could not state an exact date as to when the livestock were removed, but as of the end of the first week of January 2007 the cattle were gone. He saw no livestock on the subject properties after that date.

Based on Mr. Percival's inspections, the assessor changed the classification from agriculture to vacant land for tax year 2007. The subject properties were valued according to their size, using sales of similar vacant land parcels from the same neighborhood. Mr. Percival presented no appraisal or listing of sales used to value the subject properties. No value was placed on the old granaries or abandoned feedlot located on the subject properties.

Petitioner presented no comparable sales or requested value for the subject properties based on a market approach for vacant land classification.

Schedule No. R0018893, Terrace Heights Subdivision Filing #1 Outlot A, is a narrow strip of land located in the right-of-way of 5950 Road. Mr. Percival testified that the value placed on the parcel is half the value of other similarly sized properties. It is county policy to place such a value on these types of properties to "encourage the owner to deed these unbuildable and basically unusable parcels to either a home owners association or a government entity where they become tax exempt." Mr. Percival admitted that the assigned value does not represent market value and he believes the parcel has little if any market value.

Petitioner is requesting a 2007 actual value of \$41,293.95 for the subject properties, based on an agricultural classification of class VI at a rate of \$97.16 per acre using Delta County information. Mr. Anselmo testified that he could not obtain agricultural land valuation information from Montrose County.

Respondent assigned actual values to the subject properties for tax year 2007 as follows:

Schedule No.	Size/Acres	Total Assigned Value	Schedule No.	Size/Acres	Total Assigned Value
R0011445	17.912	\$100,000.00	R0011494	8.577	\$ 80,000.00
R0011467	8.605	\$ 80,000.00	R0011408	18.907	\$100,000.00
R0011487	8.605	\$ 80,000.00	R0011377	9.083	\$ 80,000.00
R0011466	8.576	\$ 80,000.00	R0011387	9.083	\$ 80,000.00
R0011486	8.576	\$ 80,000.00	R0011413	27.227	\$115,000.00
R0011449	17.852	\$100,000.00	R0011400	13.08	\$100,000.00
R0011447	17.85	\$100,000.00	R0011384	13.08	\$100,000.00
R0011485	8.575	\$ 80,000.00	R0011415	19.862	\$100,000.00
R0011465	8.575	\$ 80,000.00	R0011399	9.541	\$ 80,000.00
R0011484	8.575	\$ 80,000.00	R0011385	9.451	\$ 80,000.00
R0011464	8.575	\$ 80,000.00	R0011409	18.07	\$100,000.00
R0011492	8.575	\$ 80,000.00	R0011389	8.681	\$ 80,000.00
R0011471	8.575	\$ 80,000.00	R0011379	8.681	\$ 80,000.00
R0011472	8.576	\$ 80,000.00	R0011388	8.578	\$ 80,000.00
R0011493	8.576	\$ 80,000.00	R0011378	8.578	\$ 80,000.00
R0011454	17.854	\$100,000.00	R0011410	17.856	\$100,000.00
R0011473	8.577	\$ 80,000.00	R0018893	0.456	\$ 25,000.00
R0011453	27.706	\$100,080.00			
					(\$100,000.00 to 17.853 acres vacant land, \$80.00 to 9.853 acres agricultural land)
R0011446	17.851	\$146,620.00			
					(\$100,000.00 to vacant land, \$46,620.00 residence/outbuildings)

Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly classified for tax year 2007.

There is no dispute that the subject properties were used as irrigated and dry farmland in 2005. It is also undisputed that there were livestock on the subject properties from mid-November to the end of December of 2006. The livestock lease was effective November 15, 2006 to April 1, 2007, required a minimum of 15 days of use, was for a minimal consideration of \$0.50 per head, and appears to be signed and executed. The Board finds that the subject properties were used for agricultural purposes in 2005 and 2006, although the actual period of grazing use is small for the 2006 year. The critical issue is whether the subject properties were used for agricultural purposes for the tax year at issue, 2007.

It is disputed as to when the livestock were removed from the subject properties in 2007. Respondent's witness, Mr. Percival was more convincing as he inspected the properties on an "almost weekly basis" and "by the end of the first week of January the cows were gone." Mr.

Percival further testified that there were no other grazing or farming activities conducted on the subject properties during 2007. Further, Petitioner's Exhibit B dated March 26, 2008, which is an extension of the grazing lease for the 2007-2008 grazing season, is not initialed or signed by the lessee, and based on Mr. Percival's observations, does not appear to have been executed. The Board finds that the less than seven days of grazing use in January does not qualify the properties for an agricultural classification in 2007. Therefore, the subject properties do not meet the definition of agriculture under CRS § 39-1-102(1.6)(a)(I) as they do not meet the "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 . . . ."

Petitioner presented insufficient evidence to prove the assigned values of the subject properties, with the exception of Schedule No. R0018893, Terrace Heights Subdivision Filing #1 Outlot A, were incorrect.

Regarding Schedule No. R0018893, the Board finds this parcel to be overvalued. Mr. Percival admitted that the assigned value of this property is not market value and that it has little or no value. The Board concluded that the value should be reduced to a nominal value of \$1,000.00.

### **ORDER:**

Regarding Schedule No. R0018893, Respondent is ordered to reduce the 2007 actual value to \$1,000.00.

The Montrose County Assessor is directed to change his records accordingly.

Regarding the remainder of the subject parcels, the petition is denied.

### **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.

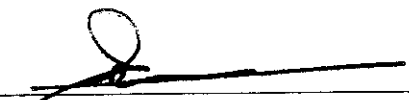
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 16<sup>th</sup> day of October 2008.

**BOARD OF ASSESSMENT APPEALS**

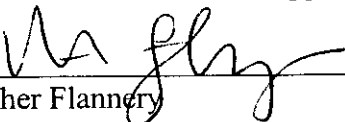
  
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Karen E. Hart

  
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James R. Meurer

This decision was put on the record

          **OCT 15 2008**          

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

  
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Heather Flannery

