

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID GROVE,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 50539</p>
<p>ORDER RETAINING JURSDICTION</p> <p>NOTICE OF CONTINUED HEARING</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 25, 2009, Karen E. Hart and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the value placed on the subject property for tax years 2005, 2006 and 2007 through a Special Notice of Valuation.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**61256 Foxrun Road, Montrose, Colorado
(Montrose County Schedule No. M0650078)**

The subject property is a 1994 manufactured home, consisting of 1,838 square feet, three-bedrooms, and one and one-half baths. The subject property sits on metals stands and is located on land owned by Petitioner's daughter and son-in-law. The subject property has a city water tap, septic, and electric meter.

Petitioner's manufactured home was placed on the daughter and son-in-law's land in late 1995. A building permit was issued by the Montrose County Land Use Department September 20, 1995. The Montrose County Land Use Department issued a Sanitary Permit November 1, 1995.

Respondent contends that tax year 2005 is not properly before the Board as Petitioner's appeal was not filed until after January 1, 2008, beyond the time period set forth in Section 39-10-114(1)(a)(I)(A), C.R.S. Further Respondent contends that Petitioner was obligated under Section 39-5-204(1)(a), C.R.S. to notify the Montrose County Assessor when he moved the manufactured home into Montrose County.

According to Respondent's witness, Petitioner was sent a Special Notice of Valuation (SNOV) for omitted property dated December 26, 2007; a 30-day appeal period was listed on the SNOV. The SNOV was for tax years 2005, 2006 and 2007. Petitioner appealed to the Montrose County Assessor and was sent a Special Notice of Determination (SNOD) dated January 29, 2008. Petitioner then appealed to the Montrose County Board of Commissioners. The Montrose County Board of Commissioners sent notice denying the appeal dated July 29, 2008. Subsequently, Petitioner appealed this decision to this Board.

The Board disagrees with Respondent that Section 39-10-114(1)(a)(I)(A) precludes Petitioner's tax year 2005 appeal in this matter. Section 39-10-114(1)(a)(I)(A) addresses petitions for abatement/refund of taxes. Petitioner's appeal was not based upon a petition for abatement/refund of taxes for the tax years in question, but rather was an appeal of the SNOV. The Board believes Petitioner has the ability to appeal all three tax years from the SNOV. No evidence was presented to show that Petitioner did not meet the appeal deadlines set forth in the SNOV, SNOD and decision of the Montrose County Board of Commissioners. Further, Section 39-5-204(1)(a), C.R.S., as referenced by Respondent which places the duty on a taxpayer to notify the assessor when a manufactured home is moved to the county, does not limit Petitioner's appeal in this matter. Petitioner has the right to due process for all tax years in question. The Board will not deny Petitioner his administrative remedy for relief.

Petitioner provided the Board with Orchard Homes Protective Covenants which state, "Property owner shall be allowed only one residential structure except in the case of immediate family then a second residence may be established not to be used as a rental." Further, when Petitioner leaves, this residence, the manufactured home, will leave the property as well.

Petitioner believes that there are no comparable sales with the unique covenant control.

Petitioner is requesting a 2005, 2006 and 2007 actual value of \$13.00 per square foot or \$23,894.00 for the manufactured home. No land is involved.

Respondent did not present an indicated value for the subject property but instead presented an assessment analysis report. No site-specific appraisal was presented; the subject property value was determined using the mass appraisal process.

For the 2005 and 2006 valuation years, Respondent provided a sales analysis grid of manufactured homes ranging in sales price from \$165,075.00 to \$213,383.00 and in size from 1,590 to 2,128 square feet. After adjustments for year built and garage, and extraction of the land value from the sales prices, the values ranged from \$93,611.00 to \$112,235.00 for the manufactured homes only. To support the value for the land value extraction, Respondent presented vacant land sales in neighborhood 6120, the subject's neighborhood, ranging in size from 3.53 acres to 70.0 acres and in sales price from \$50,000.00 to \$150,000.00. No adjustments were made to the land sales.

For the 2007 valuation year, Respondent provided a sales analysis grid of manufactured homes ranging in sales price from \$210,218.00 to \$304,200.00 and in size from 1,792 to 2,090 square feet. After adjustments for year built and garage, and extraction of the land value from the sales prices, the values ranged from \$127,397.00 to \$140,722.00 for the manufactured homes only. To support the value for the land value extraction, Respondent presented vacant land sales in neighborhood 6120, ranging in size from 3.0 acres to 35.36 acres and in sales price from \$66,000.00 to \$285,000.00. No adjustments were made to the land sales.

Based on analysis by Respondent's witness, the subject property met the requirements of a permanent manufactured home. Because the subject property was considered a permanent manufactured home, Respondent's witness testified that the utilities to the manufactured home have been valued with the subject property.

Respondent assigned an actual value of \$104,160.00 for tax years 2005 and 2006 and \$123,370.00 for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2005, 2006 and 2007. Petitioner has a unique set of circumstances with the Orchard Homes Protective Covenants. Respondent's witness testified that she was unaware of the covenants affecting the property at the time of valuation. The Board determines that the subject manufactured home should be valued as a 1994 vintage manufactured home. The Board concludes that the utilities should have been valued in the daughter and son-in-law's land, since the manufactured home cannot be rented and must be moved if it is sold to someone other than a close family member of the daughter and son-in-law.

At the hearing on June 25, 2009, the Board afforded the parties time to review the covenant restrictions on the subject property and submit additional information to the Board regarding the impact on value to the subject property. The Board received information from Respondent and Petitioner on August 19 and August 28, 2009, respectively. However the documentation received did not provide sufficient information to determine a value for the subject property.

Insufficient evidence was presented to determine a value for the subject property for tax years 2005, 2006 and 2007. Therefore, the Board retains jurisdiction over this matter and orders the parties to provide sales from the applicable base periods of comparable double-wide manufactured homes that are not permanently attached to the land. Both parties are encouraged to submit sales of double-wide manufactured homes that are located outside Montrose County if there are insufficient sales located within Montrose County.

ORDER:

The Board will continue this hearing for determination of value of the subject property, manufactured home, on:

Date: January 12, 2010
Time: 8:30 AM Mountain Time
Location: 1313 Sherman Street
Room 315, 3rd Floor
Denver, CO 80203
Time Allocated: 30 minutes per side

On or before December 29, 2009, both parties are ordered to exchange and provide to the Board a market value analysis based on sales during the applicable base periods of comparable double-wide manufactured homes that are not permanently attached to the land.

DATED and MAILED this 25th day of November 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

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

HA Flannery

Heather Flannery



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DAVID GROVE,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 50539</p>
<p>FINAL ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 25, 2009 and January 12, 2010, Karen E. Hart and Diane M. DeVries presiding. Petitioner appeared pro se. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the value placed on the subject property for tax years 2005, 2006 and 2007 through a Special Notice of Valuation.

On November 25, 2009 the Board issued an Order Retaining Jurisdiction and Notice of Continued Hearing. The January 12, 2010 hearing was held on this matter for the sole purpose of obtaining a market analysis or sales from both parties from the applicable base periods of comparable double-wide manufactured homes that are not permanently attached to the land.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**61256 Foxrun Road, Montrose, Colorado
(Montrose County Schedule No. M0650078)**

The subject property is a 1994 Schult Model K6428-314 double-wide manufactured home. The Board previously listed the square footage at 1,838 square feet, however the dimensions of the subject property are 28 feet by 64 feet for a total of 1,780 square feet.

Respondent assigned an actual value of \$104,160.00 for tax years 2005 and 2006, and \$123,370.00 for tax year 2007.

Petitioner, through Petitioner's Exhibit 3, provided the Board with two sales in Montrose County prior to June 30, 2004 for tax years 2005 and 2006, with sales prices of \$61,200.00 and \$57,600.00, for 2003 vintage double-wide manufactured homes. Further for tax year 2007, four sales were provided ranging in sales price from \$38,500.00 to \$52,900.00, all newer vintage than that of the subject property of 1994 vintage. No adjustments were made.

Respondent provided the Board with the same methodology as was presented at the June 25, 2009 hearing using sales of manufactured homes and extracting the land value. For tax years 2005 and 2006, this analysis derived an adjusted range of \$93,611.00 to \$112,235.00; Respondent arrived at a value of \$104,160.00. For tax year 2007, the adjusted sales prices ranged from \$127,397.00 to \$140,722.00; Respondent arrived at a value of \$123,370.00.

Petitioner presented sufficient probative evidence and testimony to prove that the 2005, 2006, and 2007 actual values of the subject property were incorrect. Petitioner provided the Board, as requested in its Order, with sales that occurred in the applicable time periods in Montrose and Mesa Counties. All sales were double-wide manufactured homes of newer vintage than the subject which would indicate the upper range of value. Respondent did not provide sufficient market data as requested on the limited scope of the Board's Order Retaining Jurisdiction.

Based on the evidence and testimony provided, the Board concluded that the 2005 and 2006 actual value of the subject property should be \$55,000.00, and the 2007 actual value should be \$50,000.00.

ORDER:

Respondent is ordered to reduce the 2005 and 2006 actual value of the subject property to \$55,000.00, and the 2007 actual value of the subject property to \$50,000.00.

The Montrose 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 Section 24-4-106(11), C.R.S. (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 Section 24-4-106(11), C.R.S. (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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of March 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

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

HA Flannery

Heather Flannery

