

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 51785**

Petitioner:

**G. W. KLAPWYK,**

v.

Respondent:

**MESA COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on September 13, 2010, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by David Frankel, Esq. and Nina Atencio, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Parcels A & B Klapwyk Simple Land Division Section 33 2N 2W,  
Fruita, CO  
Mesa County Schedule No. 2695-332-00-436**

The subject is a vacant land parcel containing a total of 22.29 acres. The parcel is divided into two parcels. Parcel A contains a total 8.50 acres and Parcel B contains a total of 13.79 acres. The parcels are zoned Agricultural, Forestry and Transitional District (AFT). The Grand Valley Canal, an irrigation ditch, passes along the north and east boundaries of the total parcel. Parcel A is improved with a concrete driveway pad located on the north perimeter and provides legal access to the parcel and to a bridge that crosses the irrigation ditch. Parcel B is improved with a concrete driveway pad located on the north perimeter and provides legal access to the parcel and to a bridge that crosses the irrigation ditch. Both parcels are covered with native brush and grass. A salt wash passes through the total parcel and provides a division between Parcels A and B. Public access to both Parcels A and B is provided by a two-lane paved road.

Petitioner presented an indicated value of \$100,000.00 for the subject property.

Mr. Klapwyk presented one comparable sale with a sales price of \$150,000.00 containing a total of 19.95 acres. He testified that this sale was comparable to his property in that it has good access and no provision to water.

Mr. Klapwyk stated that his property had been classified as vacant land but is “wasteland” as well with a value far below \$166,420.00 as assigned by Mesa County. Mr. Klapwyk presented photos of the subject that showed native brush and grass on the parcels and showing the irrigation ditch passing through the site. He testified that the subject had been classified as Agricultural and now is classified as Vacant Land. He testified that the parcel is agricultural use and that there is no development on site. The only use of the site is for manure storage for an adjacent property owner. He has no water rights to the irrigation ditch. The saline soil is not conducive to farming. He testified that there is no market for the parcels. Mr. Klapwyk concluded his testimony by stating that the value is too high, the parcels lack adequate access, view and water rights, and that better soils are needed for farming.

Respondent’s Counsel, Mr. David Frankel, in cross-examination asked about a subdivision application that Mr. Klapwyk had applied for. Mr. Klapwyk testified that the “Klapwyk Site Plan” had been approved. Mr. Klapwyk also testified that two bridges exist on the two parcels providing access over the irrigation ditch. Mr. Klapwyk testified that two concrete pads exist on the two parcels at the access points from the paved road.

Petitioner is requesting a 2009 actual value of \$100,000.00 for the subject property.

Respondent presented an indicated value of \$187,000.00 for the subject property based on the market approach. The appraisal, which was a portion of Respondent’s Exhibit #A, was accomplished by Sherry L. Arredondo, a Colorado Certified General Appraiser and employee of the Mesa County Assessor’s Office. Ms. Arredondo was not present at the hearing to testify on her appraisal. Ms. Arredondo’s supervisor, Mr. Brent Goff, Chief Deputy Appraiser for the Mesa County Assessor’s Office, testified to Ms. Arredondo’s appraisal experience and credibility.

Respondent’s appraisal presented six time-adjusted comparable sales ranging in sales price from \$62,948.00 to \$242,500.00 and in size from 5.94 to 35.25 acres. After adjustments were made, the sales ranged from \$5,519.00 to \$13,825.00 per acre. Adjustments were accomplished for differences in economic influence areas, for parcel size, and, for access.

Respondent’s Counsel, Mr. Frankel in closing argument, stated that the subject is not a “wasteland”; that Petitioner has invested in a subdivision application and concrete pads; that Petitioner has approval for two residential lots; that Petitioner is grandfathered into water rights; and that Petitioner has not asked for re-classification to Agriculture use.

Respondent assigned an actual value of \$166,420.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009.

The Board concurred with Respondent in that the issue in this Petition is valuation and not property classification. Petitioner presented one comparable sale. Respondent's value conclusion that is based upon the market approach utilizing six comparable sales. Adjustments were accomplished where necessary for differences in location amenity reflecting economic influence, for differences in parcel size, and for differences in parcel access. Respondent gave most weight to Comparable Sales 2, 3, 4, and 5. Their adjusted sale price per acre range was \$7,312.00 to \$8,839.00 per acre. Respondent's value conclusion was \$8,400.00 per acre. The Board concurred with Respondent's value conclusion.

### **ORDER:**

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 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 21 day of October 2010.

**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*

Diane M. DeVries

*Lyle D. Hansen*

Lyle D. Hansen

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

*Amy L. Bruins*

Amy Bruins

