

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LEON MOYER,</p> <p>v.</p> <p>Respondent:</p> <p>ALAMOSA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55597</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 23, 2011, Diane DeVries and Debra A. Baumbach. Petitioner appeared pro se. Respondent was represented by Jason T. Kelley, Esq. Petitioner is protesting the 2010 actual value and classification of the subject property.

Subject property is described as follows:

**19417 Ridge Drive, Alamosa, Colorado
Deer Valley Meadows Lot 31, Block M, Unit 2
Alamosa County Schedule No. 541708011031**

The subject property is a 1.26 acre site located in Unit 2 of Deer Valley Meadows, approximately ten miles east of Alamosa. The subdivision, comprised of Units 1, 2, and 3, was platted in 1972. Zoning permits site-built, mobile and manufactured homes. There is electrical power available within the subdivision, and it is up to each individual owner to bring it onto his/her property. Water wells and septic systems are permitted and are to be provided by each individual owner.

Petitioner is requesting a change from vacant land to residential classification and an actual value of \$850.00 for tax year 2010. Respondent assigned a value of \$5,500.00 for the subject property for tax year 2010.

Petitioner, Mr. Moyer testified he purchased the parcel at a public auction in 2004 and paid \$850.00. Since 2004, he parks his motor home on the site. The site also contains fencing,

several storage sheds, straw bales, a well, and a patio roof covering over the motor home. The motor home has a motor and transmission and is still motive. Though motive, the vehicle is not licensed, as Mr. Moyer testified that he does not believe in the purchase of insurance.

There is no electricity to the site, and it would cost \$10,000.00 to have brought in from the road. He uses a generator and propane tank, which provide electricity and heat. There is no sewer or septic system, and Petitioner refused to disclose what type of, if any, sewage system was in place. Petitioner's Exhibit 13 included a Notice of Violation issued to the Petitioner indicating violations for using a camping unit as a residence and for not having an approved individual disposal system.

Petitioner presented nine warranty deeds, one deed of trust, and one quit claim deed. He also attached TD-1000s supporting the deeds were arm's-length transactions. The transactions all occurred in 2007. The purchase prices on the warranty deeds ranged from \$200.00 to \$8,486.30, supporting his purchase prices and his indicated value. No adjustments were made and no specific information regarding the sales was provided.

Petitioner is requesting a 2010 actual value of \$850.00 for the subject property and to have it reclassified as residential.

Respondent presented an indicated value of \$5,500.00 for the subject property based on the market approach.

Ms. Sandra J. Hostetter, Alamosa County Assessor, presented seven comparable vacant land sales ranging in sale price from \$4,500.00 to \$10,000.00 and in land size from 1.03 acres to 2.23 acres. No adjustments were made.

There were no market differences between the lots located in Units 1 and 2. The lots located in Unit 3 were selling for less due to a lack of water. The subdivision no longer qualifies for a discounted lot value because the subdivision is over 80% sold out.

There were four sales from Unit 1, with an average selling price of \$6,475.00, and three sales from Unit 2, with an average selling price of \$6,000.00. The average selling price from the combined units indicated a value of approximately \$6,271.00. All of the sales were supported by the TD-1000s as arm's-length sales. Respondent correlated to a value of \$5,500.00 for the subject property.

Ms. Hostetter addressed Petitioner's warranty deeds, deed of trust, and quit claim deed. The majority of them were considered non qualified sales as they were purchased at an auction sale.

Respondent assigned an actual value of \$5,500.00 for tax year 2010.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly classified and valued for tax year 2010.

The Board was not convinced the property should be reclassified from vacant land to residential. Petitioner based his request on the presence of his motor home that he has parked on the site since 2004. Petitioner did not show that the subject property contained any of the following: a permanently fixed structure, a septic system, or electricity.

Colorado statutory law defines 'Residential Land' as being a "parcel of contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the resident improvements located thereon." Section 39-1-102(14.4), C.R.S. "Residential improvements" are defined as;

[A] building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family or families. The term includes buildings, structures, fixtures, fences, amenities, and water rights which are an integral part of the residential use. The term also includes a manufactured homes as defined in subsection (7.8) of this section... Section 39-1-102(14.3), C.R.S.

To qualify as a manufactured home, the home cannot have motive power. Section 39-1-102(7.8)(c). The Board determined Petitioner's motor home does not meet the definition of a residential manufactured or mobile home because the motor home is still motive. Lacking a qualifying residence, the subject property does not have sufficient residential improvements and thereby, does not qualify as residential land.

The Board was provided copies of TD-1000s by both parties. The Board objected to their submission, and they were removed from the Board's exhibits because, pursuant to state statutory law, TD-1000s are to be kept confidential. *See generally* Sections 39-5-121.5 and 39-13-103(c), C.R.S.

The Board placed greater reliability on Respondent's comparable sales and value conclusion. The Board was not convinced Petitioner's comparable sales were all arm's-length transactions and minimal information was provided regarding the sales.

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 10 day of June 2011.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Debra A. Baumbach

Debra A. Baumbach

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

Amy Bruins

Amy Bruins

