

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RUSSELL C. AND EVELYN RUTH HUDLER,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 56767</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 30, 2011, Diane M. DeVries and MaryKay Kelley presiding. Russell C. Hudler appeared pro se on behalf of Petitioners. Respondent was represented by Writer Mott, Esq. Petitioners are protesting the 2010 classification and actual value of the subject property.

Subject property is described as follows:

**4396 Camino Perdido, Golden, Colorado
Jefferson County Schedule No. 131656**

The subject property consists of a 1,443-square foot cabin on a 40-acre parcel of land, six and one-half miles west of Golden via Golden Gate Canyon. The original 363-square foot cabin was built circa 1920 with 1,080 square feet added in approximately 1960. It has no utilities. The parcel is surrounded on three sides by Jefferson County Open Space, also known as Centennial Cone Park, and is dissected by one of the park's approximate 12 miles of hiking and biking trails. An easement allows Jefferson County Open Space vehicle access through the property.

Petitioners are requesting agricultural classification for tax year 2010. Respondent assigned residential classification with an actual value of \$262,790.00.

Mr. Hudler's request for agricultural classification is based on a 130-year history of grazing cattle in four Colorado counties. He has moved as many as 200 head of cattle to the subject parcel seasonally, the number having decreased to 60 as of late due to increasing numbers of elk who inflict

extensive damage on fencing. Pasturing on the subject parcel has become imperative due to drought in southern Colorado. In the past few years, after repairing fences in the spring and delivering cattle for summer pasture, Mr. Hudler has had to re-load and return them to southern pastures due to elk-damaged fencing and his inability to contain them within the subject parcel. This scenario repeated in tax years 2008, 2009, and 2010.

Respondent's witness, Tammy J. Crowley, Certified General Appraiser, cited the statutory definition of agricultural land as "a parcel of land...that was used the previous two years and presently is used as a farm or ranch...or that is in the process of being restored through conservation practices." Section 39-1-102(1.6)(a)(I), C.R.S. The statutory definition of ranch is "a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit." Section 39-1-102(13.5), C.R.S. During 2009 and 2010 inspections, Ms. Crowley saw tall grasses, rusted water tanks, and no evidence of cattle. She also noted the absence of any ranching documentation by Petitioners since 2004. Because her office was unable to verify grazing for tax years 2008, 2009, and 2010, the subject property's agricultural classification was improper.

Ms. Crowley, while visually inspecting outbuildings on the subject property, noted that the cabin, previously used for storage, had a second-story addition, a kitchen sink, and the framework of a bathroom (shower stall and toilet). Residential classification was assigned.

Ms. Crowley presented a value of \$400,000.00 for the subject property based on the market approach with four comparable sales ranging in sale price from \$179,000.00 to \$630,000.00, in size from 480 to 1595 square feet, and in acreage from 5.0 to 42.657. After adjustments were made, the sales ranged from \$312,700.00 to \$415,300.00. She weighed all four sales in her reconciliation.

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

The Board understands and is sympathetic to the plight of Petitioners but must adhere to statutory requirements. Cattle were not present in tax year 2010 or the preceding two years, and Petitioners have not sought conservation protection.

Regarding valuation, Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Petitioners failed to present any evidence contradicting Respondent's market analysis.

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 8 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

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

Amy Bruins

Amy Bruins

