

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WEST RIDGE GROUP LLC,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52450 & 56786</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 30, 2011, James Meurer and Diane M. DeVries presiding. Petitioner was represented by Joseph T. Bernstein, Esq. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2009 and 2010 actual value of the subject property.

Dockets 52450 & 56876 were consolidated. The parties agreed at the onset of the hearing that for tax years 2009 and 2010 the following schedule numbers are to be valued using the agriculture classification: R0011446, R0011464, R0011465, R0011466, R0011484, R0011485, and R0011486. In addition to those schedule numbers, the following numbers will also received agriculture classification status for tax year 2010: R0011445, R0011447, R0011449, R0011467 and R0011487. The parties agreed to submit the 2009 actual valuations to the Board under a separate stipulation.

Montrose County Schedule Numbers: R0011377-79, R0011384-85, R0011387-400, R0011408-10, R0011413, R0011415, R0011445-47, R0011449, R0011453-54, R0011464-67, R00471-73, R0011484-87, R0011492-94, and R0018893 (withdrawn)

The subject property consists of 35 vacant land parcels in Collins Farms, Olathe, Colorado. The subject lots range in size from 8.575 to 27.227 acres, have easy access to Montrose or Delta, and either border or are close to Highway 50, the main four-lane highway from Grand Junction to Montrose. However, at least 21 lots have no physical access to Highway 50 as of June 30, 2008.

Petitioner contends that the Respondent's witness has not made adjustments for access, water, electrical and irrigation. Mark Schaffer, Certified General Appraiser, presented a self-contained appraisal on the above referenced parcels. The subject property is 35 separate parcels, which are also commonly divided in two parcels: parcels A and B. Parcel A is 227 acres (20 lots) and parcel B is 199 acres (15 lots). Both parcels have irrigated lands and waste lands. Twenty-nine of the lots have Uncompahgre Valley Water Users Association (UVWUA) project water rights attached to them. There are six lots that have no water rights. Of those lots with UVWUA rights, some only have landscape water rights and would need separate irrigation water delivery points. In addition to domestic water and electric lines, there would need to be new underground piping and measuring devices for irrigation water to those lots.

Parcel B has an abandoned feedlot and auxiliary buildings, all in poor condition, and no contributory value. These improvements negatively affect four of the parcels.

Each parcel is encumbered by a utility and access easement on one or more sides. There is also a county road right of way easement and irrigation ditch, pipeline and drainage ditch easements affecting many of the lots. Lots in Tract 44 are subject to a large gas pipeline easement. None of these existing easements cause the lots to be unmarketable.

Based on the market approach, Mr. Schaffer presented nine comparable sales of similar location, size, appeal utility and percentage of irrigation. These sales ranged in sales price from \$5,080.00 to \$16,169.00 per acre and in size from 8.57 to 18.11 acres. After adjustments were made, the sales ranged from \$5,080.00 to \$14,761.00 per acre.

Mr. Schaffer presented how his adjustments were made on Petitioner's Exh. 1, pages 35-38. Petitioner is requesting 2009 and 2010 actual values the subject lots as follows:

Schedule Number	2009 Actual Value	2010 Actual Value
R0011377	\$12,000	\$10,000
R0011378	\$14,000	\$10,000
R0011379	\$14,000	\$10,000
R0011384	\$65,000	\$46,000
R0011385	\$14,000	\$10,000
R0011387	\$34,000	\$25,000
R0011388	\$50,000	\$41,000
R0011389	\$26,000	\$18,000
R0011399	\$25,000	\$15,000
R0011400	\$38,000	\$20,000
R0011408	\$60,000	\$47,000
R0011409	\$86,000	\$67,000
R0011410	\$81,000	\$63,000
R0011413	\$96,000	\$68,000
R0011415	\$65,000	\$45,000
R0011445	\$58,000	Agriculture
R0011446	Agriculture	Agriculture

R0011447	\$89,000	Agriculture
R0011449	\$93,000	Agriculture
R0011453	\$81,000	\$59,000
R0011454	\$93,000	\$71,000
R0011464	Agriculture	Agriculture
R0011465	Agriculture	Agriculture
R0011466	Agriculture	Agriculture
R0011467	\$10,000	Agriculture
R0011471	\$54,000	\$24,000
R0011472	\$61,000	\$31,000
R0011473	\$72,000	\$42,000
R0011484	Agriculture	Agriculture
R0011485	Agriculture	Agriculture
R0011486	Agriculture	Agriculture
R0011487	\$10,000	Agriculture
R0011492	\$43,000	\$34,000
R0011493	\$64,000	\$34,000
R0011494	\$74,000	\$44,000

Respondent witness, Terri Warner of the Montrose County Assessor’s Office, presented sales information on typical residential sites in Montrose County. Sites valued by the mass appraisal system sites were as follows: 5.0 to 9.9 acre sites at \$90,000.00 each, 10.0 to 19.9 acre sites at \$110,000.00 each and 20.0 to 34.9 acre sites at \$125,000.00 each. No adjustments were made for differences.

One sale in the subject subdivision occurred during the base period of January 1, 2007 through June 30, 2008. Respondent’s witness provided the Board with sales that occurred throughout Montrose County during the 18-month base period, but no adjustments were made to these sales.

Respondent assigned the following actual values to the subject properties, as set forth below:

Schedule Number	2009 Actual Value	2010 Actual Value
R0011377	\$90,000	\$90,000
R0011378	\$90,000	\$90,000
R0011379	\$90,000	\$90,000
R0011384	\$110,000	\$110,000
R0011385	\$90,000	\$90,000
R0011387	\$90,000	\$90,000
R0011388	\$90,000	\$90,000
R0011389	\$90,000	\$90,000
R0011399	\$90,000	\$90,000
R0011400	\$110,000	\$110,000
R0011408	\$110,000	\$110,000
R0011409	\$110,000	\$110,000

R0011410	\$110,000	\$110,000
R0011413	\$125,000	\$125,000
R0011415	\$110,000	\$110,000
R0011445	\$110,000	\$6,250**
R0011446	\$110,000*	\$6,500**
R0011447	\$110,000	\$6,500**
R0011449	\$110,000	\$6,500**
R0011453	\$110,000	\$110,000
R0011454	\$110,000	\$110,000
R0011464	\$90,000	\$3,120**
R0011465	\$90,000*	\$3,120**
R0011466	\$90,000*	\$3,120**
R0011467	\$90,000	\$160**
R0011471	\$90,000	\$90,000
R0011472	\$90,000	\$90,000
R0011473	\$90,000	\$90,000
R0011484	\$90,000*	\$3,120**
R0011485	\$90,000*	\$3,120**
R0011486	\$90,000*	\$3,120**
R0011487	\$90,000	\$120**
R0011492	\$90,000	\$90,000
R0011493	\$90,000	\$90,000
R0011494	\$90,000	\$90,000
R0018893	Withdrawn	Withdrawn

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009 and 2010.

Respondent provided a mass appraisal to the Board with no indication of any adjustments for differences in the subject parcels with that of other parcels throughout Montrose County. When applying the market approach, parties should present site specific appraisals with adjustments by the time it comes before the Board. Colorado Revised Statutes and the Division of Property Taxation Assessor's Reference Library require that adjustments shall be made to the sales for differences such as water, electric, access, etc... Petitioner's appraiser applied reasonable adjustments; Respondent's did not.

The Board accepted the 2009 values as set forth by the Petitioner and applied those values for tax years 2009 and 2010, but the Board changed the 2010 values of the parcels affected by the agricultural classification. Petitioner's 2010 values were not accepted by the Board because the sales used in determining those values occurred after June 30, 2008.

* Indicates agricultural classification for tax year 2009.

** Indicates agricultural classification for tax year 2010.

ORDER:

Respondent is ordered to reduce the 2009 and 2010 actual values to the values listed below:

Schedule Number	2009 Actual Value	2010 Actual Value
R0011377	\$12,000	\$12,000
R0011378	\$14,000	\$14,000
R0011379	\$14,000	\$14,000
R0011384	\$65,000	\$65,000
R0011385	\$14,000	\$14,000
R0011387	\$34,000	\$34,000
R0011388	\$50,000	\$50,000
R0011389	\$26,000	\$26,000
R0011399	\$25,000	\$25,000
R0011400	\$38,000	\$38,000
R0011408	\$60,000	\$60,000
R0011409	\$86,000	\$86,000
R0011410	\$81,000	\$81,000
R0011413	\$96,000	\$96,000
R0011415	\$65,000	\$65,000
R0011445	\$58,000	Agriculture
R0011446	Agriculture	Agriculture
R0011447	\$89,000	Agriculture
R0011449	\$93,000	Agriculture
R0011453	\$81,000	\$81,000
R0011454	\$93,000	\$93,000
R0011464	Agriculture	Agriculture
R0011465	Agriculture	Agriculture
R0011466	Agriculture	Agriculture
R0011467	\$10,000	Agriculture
R0011471	\$54,000	\$54,000
R0011472	\$61,000	\$61,000
R0011473	\$72,000	\$72,000
R0011484	Agriculture	Agriculture
R0011485	Agriculture	Agriculture
R0011486	Agriculture	Agriculture
R0011487	\$10,000	Agriculture
R0011492	\$43,000	\$43,000
R0011493	\$64,000	\$64,000
R0011494	\$74,000	\$74,000

The Montrose County Assessor is directed to change his/her 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 ____ day of April 2011.

BOARD OF ASSESSMENT APPEALS

James Meurer

Diane M. DeVries

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

Amy Bruins

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.

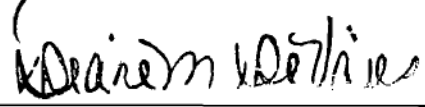
Section 39-8-108(2), C.R.S.

DATED and MAILED this 15 day of April 2011.

BOARD OF ASSESSMENT APPEALS

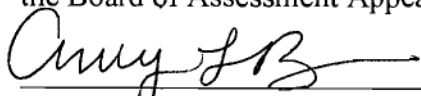


James Meurer



Diane M. DeVries

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



Amy Bruns

