

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WILLIAM BRYANT,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 56813</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 8, 2011, James R. Meurer and Diane M. DeVries presiding. Petitioner, Mr. William Bryant, appeared pro se. Respondent was represented by David Wunderlich, Esq. Petitioner is protesting the 2010 classification and value of the subject property.

Subject property is described as follows:

**25411 Westridge Road, Golden, CO
Jefferson County Schedule No. 431679**

The subject property consists of a single-family ranch style home containing 2,347 square feet of above grade living area, a 2,327 square foot unfinished walkout basement and an attached two-car garage. The house was constructed in 2000 and site size is two acres.

The house is located within the Jefferson Center Highlands which is adjacent to the Blue Mountain Estates Subdivision. These subdivisions are located west of Highway 93 and south of Highway 72 and consist of approximately 148 parcels and 118 residential homes. The area is described as a box canyon bordered by two ridges that surround the valley. The east ridge has an elevation of about 7,120 feet, and the west ridge has an elevation of about 7,520 feet. The U-shaped valley has only one entrance via Highway 72. There is grazing on the east and north ends of the valley along the railroad tracks and on the west ridge.

Petitioner is requesting an agricultural classification for the property, as well as protesting the assigned value of the subject of \$596,700.00 for tax year 2010. Petitioner believes that

market value should equate to \$350,000.00. Respondent classified the property as residential for tax year 2010 and presented an appraisal reflecting a market value of \$620,000.00.

Concerning the subject's classification, Petitioner stated that since his purchase he has not fenced off the subject property, did not chase off cattle, and did not own the property in 2009. Petitioner purchased the subject property in 2010 and his research prior to the purchase indicated that the subject property was previously classified for property tax purposes as agricultural. Petitioner did not know if grazing occurred on the subject property or in the Blue Mountain Estates Subdivision in 2009 since he did not own the property in 2009.

The statutory definition of "agricultural land" is "[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; *see also Douglas County Board of Equalization v. Clarke*, 921 P.2d 717, 721 (Colo. 1996).

Respondent indicated that it was clear that grazing did not take place in 2009 on the subject and the weather conditions resulting from an act of god could not be considered in Respondent's reclassification of the subject.

In terms of valuation, Petitioner testified that the 2010 assigned value of the property increased significantly from the previous year. Petitioner further testified that the property was not properly adjusted for the influence of Schwarzwald Uranium Mine, access off Westridge Road, and driveway easement to the subject property. Petitioner indicated that the comparable sales used by Respondent occurred on the valley floor of the Blue Mountain Subdivision but did not have the same influences as the subject property as to access and proximity to the uranium mine. Petitioner indicated that his conclusion of value of \$350,000.00 was based on the previous value assigned by the Assessor.

Respondent's witness, Mr. Stephen C. DeBell, a Certified Residential Appraiser with the Jefferson County Assessor's Office, presented an appraisal referencing three comparable sales to support his opinion of market value. The sales ranged in price from \$459,900.00 to \$760,000.00 prior to any adjustments, and from \$615,360.00 to \$748,200.00 subsequent to adjustments. All of the sales were located in the Blue Mountain Subdivision with the same influences as the subject. Major adjustments to the sales included lot size, view, construction quality, year of construction, living area square footage, basement and basement finish. Mr. DeBell's final estimate of value for the subject was \$620,000.00, on the lower end of the range.

Respondent assigned an actual value of \$596,700.00 to the subject property for tax year 2010.

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

Concerning the residential classification of the subject, the Jefferson County Assessor's staff confirmed with the lessee/rancher that cattle were not placed in the Blue Mountain Estates Subdivision due to the weather. Petitioner concurred he did not own the property in 2009 so he did not know if grazing occurred during 2009. The Board finds that the subject property's principal and only use was residential because grazing did not occur during 2009.

In terms of 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). After careful consideration of the testimony and exhibits presented during the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales accurately reflect the market value of the subject property.

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).

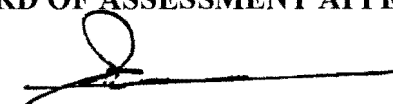
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 1st day of December, 2011.

BOARD OF ASSESSMENT APPEALS

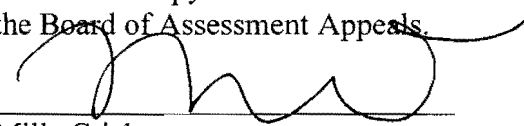


James R. Meurer



Diane M. DeVries

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



Milla Crichton

