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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RAYMOND B. AVEDON,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 56950 and 56951</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on May 19, 2011, Debra A. Baumbach and Lyle D. Hansen presiding. Petitioner was represented by John W. Gaddis, Esq. Respondent was represented by Michael A. Koertje, Esq. Petitioner is protesting the 2010 property classification of the subject property.

Dockets 56950 and 56951 were consolidated at the beginning of the hearing.

Subject property is described as follows:

**2781 and 2801, Lots 28 and 29, North Lakeridge Trail, Longmont, Colorado
Boulder County Schedule Nos. R0505285 and R0505286**

The subject property consists of two contiguous platted vacant lots located in the Lake Of The Pines Subdivision. Lot 28 contains a total of 0.96 acres and Lot 29 contains a total of 1.08 acres. Full utilities are available to both lots. Lot 29 is adjacent to Lot 30, which is improved with a single-family residence occupied by Petitioner. The two lots are unimproved and are covered with native grass and trees. North Lakeridge Trail is a paved two-lane street and provides access to both lots.

Petitioner does not dispute the actual value for the subject property. Petitioner disputes the land classification of the two platted lots as vacant land. Petitioner is requesting the land classification be changed to residential land.

Mr. Avedon requests residential land classification. It is his opinion that the two platted lots are a part of, and contiguous to, the lot upon which his single-family residence is located. Mr. Avedon describes the two lots as a back yard for his single-family residence. His family uses the two vacant lots for residential recreational purposes. He testified that there are no boundaries between the lots; that the two lots along with the improved lot look like one parcel. Mr. Avedon testified that in 2004 he changed the ownership status of the three lots to single member Limited Liability Companies (LLCs). As a result, he testified that the Boulder County Assessor then assessed the two lots as vacant land.

Respondent's witness, Mr. Stewart Leach, testified that he inspected the two lots on April 6, 2011, and there was no evidence of a big back lawn adjacent to the lot with the improved residence. He testified that on June 7, 2004, the two subject vacant lots and the improved lot were deeded to separate LLCs.

Respondent cited *Sullivan v. Bd. of Equalization of Denver County*, 971 P.2d 675 (Colo. App. 1998) which states: "Parcels of land, under common ownership, that are contiguous to land used for a residence and used as an integral part of a residence, are classified as residential property."

Respondent indicated that the decision sets two tests for classifying a parcel of vacant land as residential property: 1) common ownership and 2) contiguous parcels. Respondent argued that the two parcels do not meet the first test since they are under separate ownership as Limited Liability Companies from Lot 30.

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

The Board agrees with Respondent's analysis. Because the three lots are all owned under separate names, Lots 28 and 29 do not meet the requirements provided in *Sullivan* to be contiguous with the residential property, Lot 30. Accordingly, the two vacant lots are correctly classified as vacant land.

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 27 day of May 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

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 Bruins
Amy Bruins

