

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 57949

Petitioner:

SCOTT W. GETTMAN,

v.

Respondent:

**FREMONT COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 7, 2011, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner appeared pro se. Respondent was represented by Brenda L. Jackson, Esq. Petitioner is protesting the 2009 classification of the subject property.

Subject property is described as follows:

**1388 14th Trail, Cotopaxi, Colorado
Fremont County Schedule No. 760-05-950**

Petitioner contends that the subject should be classified as residential and taxed at a residential rate for tax year 2009. Petitioner presented evidence to show that a well had been completed on the property in May 2008; a certificate of completion had been issued for a “detached garage/storage building” in August 2009; and that a renewal for a sewage disposal system had been issued in November 2009. Mr. Gettman testified that he had been living in his camper located within the storage building and had relied on a hose from the outside well to provide water to the inside of the building. There was no septic system in place to service the storage building as of January 1, 2009. Mr. Gettman moved a mobile home onto the property in September 2009.

Respondent contends that as of January 1, 2009, the only structure on the subject property was a large garage and that there was no completed, or partially completed residence as of that date. Respondent presented photographs of the garage along with a sketch. Respondent contends that a garage by itself does not qualify as a residential structure, using the certificate of completion for the

“detached garage/storage building” as supportive evidence. Respondent also noted that no certificate of occupancy had been issued for the garage/storage building that would permit residential use.

Based on sufficient probative evidence and testimony, the Board was convinced that the subject property was correctly classified for tax year 2009. The Board finds that as of January 1, 2009, the subject did not meet the definition of a residential unit, 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 that are an integral part of the residential use. The term also includes a manufactured home as defined in subsection (7.8) of this section, a mobile home as defined in subsection (8) of this section, and a modular home as defined in subsection (8.3) of this section.” Section 39-1-102 (14.3), C.R.S.

The Board was convinced that on January 1, 2009, the only structure located on the subject site was accurately described as a detached garage/storage building and that it had no sewer or water service on that date. The Board was not convinced that a hose from an outdoor well qualified as “plumbing” for purposes of residential occupation. Petitioner’s use of a camper, whether parked inside the structure or outside, does not qualify as residential use as defined by the statute.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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).

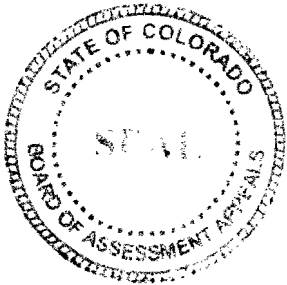
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 23rd day of December, 2011.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

Diane M. DeVries

Sondra W. Mercier

Sondra W. Mercier

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

Milla Crichton

Milla Crichton