BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket Nos.: 61146, 61147, 61148, 61149, 61150, 61151, 61152, 61153, 61154, 61155, 61156, 61157, 61158
Petitioners: **IRIS E. BEHR & JOHN W. MUIR;** **BECHERER STEAMBOAT PROPERTIES, LLC;** **LINK FAMILY TRUST;** **JOHN O. PETERSON;** **SHAFER HENRY TRUST;** **LARRY W. STARK;** **VIRGINIA E. & RICHARD J. SREDNICKI;** **IRIS E. BEHR & JOHN W. MUIR;** **IRIS BEHR REVOCABLE TRUST;** **MARY K. ALLEN AS TRUSTEE;** **SMR 8, LLC;** **TOM & LYNNE KARTSOTIS;** **DOUGLAS C. FLOREN** v. Respondent: **ROUTT COUNTY BOARD OF EQUALIZATION.**	

ORDER ON STIPULATION

THESE MATTERS were heard by the Board of Assessment Appeals on May 13, 2013, May 14, 2013 and October 10, 2013, Debra A. Baumbach and Louesa Maricle presiding.

The 13 subject properties are located within Storm Mountain Ranch, Steamboat Springs, Colorado and are described with the following Routt County schedule numbers:

Docket #	Schedule #	Docket #	Schedule #
61146	R8165355	61153	R8165860
61147	R8164276	61154	R3205567
61148	R8164279	61155	R8164284
61149	R8164281	61156	R8165857
61150	R8164283	61157	R8164280
61151	R8164285	61158	R8164275
61152	R8165318		

Petitioners appealed the residential classification assigned by Respondent for tax year 2012 to the one-acre land area underlying their residential improvements. The parties agreed that the agricultural classification assigned to the remainder of each Petitioner's property was not in dispute in these appeals. Petitioners also appealed the 2012 actual values of the subject properties with specific regard to the one-acre land area underlying the residential improvements.

On December 11, 2013, the Board issued an order denying each Petitioner's appeal of the residential classification assigned by Respondent to the one-acre land area underlying their residential improvements. The Board granted each Petitioner's appeal of the valuation of the subject properties for tax year 2012 and ordered Respondent to reduce the 2012 actual values for the one-acre parcels underlying each residence to $60,000. The Board's December 11, 2013 order is attached and incorporated into this Order as Exhibit 1.

Respondent appealed the Board's order to reduce the 2012 actual values for the subject properties to the Colorado Court of Appeals. Petitioners did not appeal the Board's order affirming Respondent's classification of the one-acre parcels as residential.

The Court of Appeals announced its opinion on April 23, 2015, and the mandate was issued on June 17, 2015. The Court of Appeals reversed the Board's order on valuation and remanded the matters to the Board for remand to Respondent for new proceedings and entry of new assessments consistent with the opinion of the Court of Appeals. The opinion of the Court of Appeals is attached and incorporated into this Order as Exhibit 2.

The Board subsequently remanded these matters to Respondent for new proceedings and entry of a new assessment consistent with the Court of Appeals' opinion. The Board's order on remand required Petitioners to file notices with the Board if they disagreed with the values determined by Respondent in the new proceedings. On March 8, 2016, Petitioners filed objections to the revised assessments, and the Board set these matters for hearing.

On April 18, 2016, the parties filed a stipulation with the Board. A copy of the stipulation is attached and incorporated into this Order as Exhibit 3. As stated in the stipulation, the parties agree that the 2012 actual values of the subject properties should be reduced to:

Docket #	Schedule #	2012 Total Actual Value
61146	R8165355	$5,482,490
61147	R8164276	$4,447,820
61148	R8164279	$6,604,470
61149	R8164281	$2,961,290
61150	R8164283	$5,972,640
61151	R8164285	$2,750,060
61152	R8165318	$7,367,980
61153	R8165860	$1,021,580
61154	R3205567	$ 937,700
61155	R8164284	$2,186,530
61156	R8165857	$5,146,630
61157	R8164280	$2,804,580
61158	R8164275	$4,111,000

The parties also agree to the allocation of the total actual value for each schedule number as set forth in Exhibit H of the stipulation.

The Board concurs with the stipulated 2012 actual values of the subject properties and the parties' allocation of the total actual value for each schedule number as set forth in Exhibit H of the stipulation.

ORDER:

Respondent is ordered to reduce the 2012 actual value of the subject properties as set forth above.

The Routt County Assessor is directed to change his records accordingly.

DATED AND MAILED this 5th day of May, 2016.

BOARD OF ASSESSMENT APPEALS

Louesa Maricle

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

G. Katardzic
Gordana Katardzic

Debra A. Baumbach
Debra A. Baumbach

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket Nos.: 61146, 61147, 61148, 61149, 61150, 61151, 61152, 61153, 61154, 61155, 61156, 61157, and 61158
Petitioner: **IRIS E. BEHR & JOHN W. MUIR** **BECHERER STEAMBOAT PROPERTIES, LLC** **LINK FAMILY TRUST** **JOHN O. PETERSON** **SHAFER HENRY TRUST** **LARRY W. STARK** **VIRGINIA E. & RICHARD J. SREDNICKI** **IRIS E. BEHR & JOHN W. MUIR** **IRIS BEHR REVOCABLE TRUST** **MARY K. ALLEN AS TRUSTEE** **SMR 8, LLC** **TOM & LYNNE KARTSOTIS** **DOUGLAS C. FLOREN** v. Respondent: **ROUTT COUNTY BOARD OF COMMISSIONERS.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 13, May 14, and October 10, 2013, Debra A. Baumbach and Louesa Maricle presiding. Petitioners were represented by Mikaela V. Rivera, Esq. and Darrel Waas, Esq. Respondent was represented by John D. Merrill, Esq. and Erick Knaus, Esq. Petitioners are requesting reclassification of the subject properties from residential land to agricultural and the corresponding reduction in valuation for tax year 2012. Petitioners further protest the valuation of the residential land portion of the properties in the event the Board determines that any of the subject properties should not be classified as agricultural land for tax year 2012.

Exhibit 1

At the outset of the hearing, both parties agreed to consolidate Dockets 61146, 61147, 61148, 61149, 61150, 61151, 61152, 61153, 61154, 61155, 61156, 61157, and 61158.

Petitioners are requesting a recalculation of the actual value for each of the subject properties for tax year 2012, based on agricultural classification. Respondent assigned a value of $1,430,000 for one acre of each of Petitioners' larger parcels, based on a residential land classification.

GENERAL PROPERTY DESCRIPTION:

Subject properties are described as follows:

> **13 Residential Properties within Storm Mountain Ranch,**
> **Steamboat Springs, Colorado**
> **Routt County Schedule Nos.: R8165355, R8164276, R8164279, R8164281, R8164283, R8164285, R8165318, R8165860, R3205567, R8164284, R8165857, R8164280, and R8164275**

The subject properties included in these petitions are one-acre parcels of land underlying residential improvements on individually owned, large acreage residential lots. All of the lots are included in a larger development of approximately 1,083 acres known as Storm Mountain Ranch ("SMR") near Steamboat Springs in Routt County. SMR includes 14 individual home sites, most of which have residential improvements, as well as the SMR Homeowners' Association (the "HOA") owned land and improvements. The 14 residential parcels are 35 acres, 70 acres, or twin 35-acre parcels with one building envelope between the two. In addition to the individually owned residences with their accessory buildings, SMR improvements owned by the HOA include a community gathering facility, guest cabins, the ranch manager's house, accessory buildings housing horses and equipment, and a riding arena. Outdoor recreational amenities provided for the owners and their guests include horseback riding, fishing, hiking, Nordic skiing, and other outdoor pursuits. Over 800 acres of the SMR property, including portions of Petitioners' parcels, are held in a conservation easement with the Yampa Valley Land Trust. SMR has an agriculture program and has previously all been classified by Respondent as agricultural for property tax assessment purposes.

The land classification issue in these cases is a result of House Bill 11-1146, which amended Section 39-1-102(1.6)(a)(I)(A) C.R.S. effective January 1, 2012. The change in the statute relates to the classification of land underlying residential improvements on agricultural property either as agricultural or residential land for tax assessment purposes. In response to the change in the statute, Respondent reclassified one acre underlying the residential improvements on each Petitioner's property as residential. Both parties agree that the agriculture classification granted to the remainder of the SMR land is not in dispute in these cases.

AGRICULTURAL CLASSIFICATION:

Petitioners' Claims

Petitioners claim that the land at issue meets the statutory requirements. The entire ranch was founded and exists to preserve and promulgate agricultural operations. In connection with these activities, SMR employs a full-time ranch manager, 3 ranch workers, and seasonal employees who work year round in the agricultural and ranching operations, in addition to seasonal workers.

The Storm Mountain Ranch Declarations establish the HOA, of which, all residential ranch owners are members. Under the Declarations, the owners are barred from fencing their individual lots and from conducting an agriculture program on their properties. Any agriculture program must be conducted by the HOA. The HOA operates an agriculture program on HOA land and portions of Petitioners' lots. The agriculture program consists of hay cultivation on approximately 200 acres, livestock grazing during part of the year, and general preservation of the ranch land and resources.

Petitioners claim that each of the owners participates in significant aspects of the agricultural operations. Petitioners, through their membership in the HOA, function as corporate directors and manage the full time staff in connection with the agricultural operations, forestry, weed control, water management, and all other parts of land management. Petitioners do not turn over agriculture and land management to a third party who does not live and/or work full time on the property. Rather, as a member of the HOA, whose activities include management of the common element improvements, recreation activities, and the agricultural operation, each owner is directly involved with the agricultural and ranching operations.

Additionally, each owner pays annual dues, a significant portion of which are dedicated to operation, maintenance and enhancement of the agricultural operations at SMR. The owners also plan for, fund, own and maintain a variety of equipment for the purpose of conducting the agricultural and ranching operations. Thus, as a group, the owners ultimately are responsible for all aspects of SMR management. Until tax year 2012, all the land encompassed by SMR was classified as agricultural. Without the commitment and participation of each owner, the SMR's extensive agricultural operation would cease to exist.

Petitioners contend that Respondent has improperly classified the land underlying each of the 12 home sites with residences, determining that the residential improvements were not "integral" to the agricultural operations at SMR. Based on the language of the new statute as well as guidance from the Assessor's Reference Library ("ARL"), the SMR owners are integral to the agricultural operations on the property and, thus, the land on which their residences are located should not have been reclassified as residential. The ARL specifically states, "Examples of regular participation may include bookkeeping for the operation or ongoing physical involvement." ARL Vol. 3, page 5.20. This statement anticipates that "integral" participation may not always be through physical labor but includes all forms of direct support of the operation. The language of Subsection (B) further supports this interpretation, because it specifically includes supervision and administration of agricultural operations. See Section 39-1-102(a)(I)(B), C.R.S.

Petitioners contend that although the residential improvements are not used to house equipment or supplies used for the SMR agriculture program, or to shelter qualifying livestock, each Petitioner is integral to the agriculture program on the ranch, qualifying the land underlying their residences for agriculture classification.

Petitioners John W. Muir, Iris E. Behr, Hans Becherer, Richard J. Srednicki, Ben Hollingsworth, and Larry W. Stark testified about the organization of SMR, the Mission Statement, and their involvement in the agriculture program at SMR. Petitioners serve on HOA committees and participate in quarterly HOA meetings where decisions regarding the agriculture program, budgeting, capital improvements, equipment, and water rights are discussed. The HOA Board oversees the SMR employees. Petitioners also participate in informal meetings at the ranch addressing agriculture program issues. These informal meetings can occur as owners encounter each other or the ranch manager on the road and stop to talk; as they meet each other elsewhere on the ranch property, and at social gatherings. All Petitioners who appeared testified that they spray weeds and are involved in creek and ditch maintenance on their individual lots that support the SMR agriculture program. Petitioners inform the ranch manager and other employees about repair and maintenance and livestock issues they observe on the ranch during the course of their outdoor activities. Through the HOA, Petitioners have spent a significant amount of money to remove trees on the property that were killed by pine beetles. Petitioners have had forest fire preparedness training toward protecting their homes and other SMR property. Petitioners also contend that the agriculture program could not exist without the support of their annual HOA dues and management oversight. Petitioners claim that these activities qualify all of them as integral to the agriculture operation.

Daniel Bell, the ranch manager employed by the HOA, testified that he is authorized by all Petitioners to represent them as Agent relative to the property tax assessment issues. Mr. Bell testified that he has discretion about the day-to-day operations of the ranch and the agriculture operation as well as the recreational aspects of SMR. He supervises all employees. Mr. Bell has the authority to enter into lease agreements with third parties for the hay and grazing activities, within the operation goals of the HOA and the owners. He and his staff prepare and submit annual reports about the agriculture operation required by the county Assessor with regard to the SMR agricultural classification for the purpose of tax assessment. Mr. Bell testified that the residential lots were designed specifically to allow each to have a portion of the land included in the SMR agriculture program. The focuses of the agriculture program are to fulfill the SMR Mission Statement and to maintain the agriculture classification for the purpose of property tax assessment. Mr. Bell's ranch budget requires approval of the owners through the HOA, so Petitioners are involved in the agriculture program. The witness apprises some of the less-involved Petitioners about SMR issues, including the agriculture operation.

Respondent's Claims

Respondent contends that the one-acre tracts underlying the residences on the subject building envelopes included in this case do not meet the requirements under Section 39-1-102(1.6)(a)(I), C.R.S. The residences and other building improvements do not house equipment, supplies, or livestock associated with the SMR agriculture program. Further, the owners are not

integral to the agriculture program, so the land underlying the residences does not qualify for agriculture classification.

Gary Peterson, the Routt County Assessor, appeared as witness for Respondent. Mr. Peterson testified about the HOA owned improvements and recreational amenities at SMR and that the SMR website describes the property as a planned recreational community. The witness testified that SMR has extreme flagpole shaped lots with portions that diminish to less than 40 feet in width; in the case of the Floren lot, the width of a portion drops to inches. It is Mr. Peterson's opinion that the extreme lot configuration allows the SMR agriculture program activities to touch on some portion of all of the lots. Petitioners may not fence their individual lots and may not conduct agriculture activities on their lots; all agricultural activity must be conducted by the HOA, which has hired a full-time ranch manager and staff. The HOA leases the land to third parties for hay and grazing activities. The witness testified that he reviewed the HOA financial statements, quarterly HOA Board meeting minutes, annual meeting minutes, and meeting attendance charts. The attendance charts show that some Petitioners are regular participants, some are occasional participants, and some rarely participate. The witness concluded that Petitioners are several steps removed from the agriculture operation on their lots because of the HOA, the full-time SMR staff, and the agricultural program leases. The witness also concluded that the activities of the individual Petitioners do not meet the statutory requirements to qualify them as integral to the agriculture operation on their lots.

Respondent also presented Mr. Kyle Hooper of the Department of Property Taxation as witness. Mr. Hooper testified about his involvement with the Agriculture Classification Task Force (the "Task Force") and the report submitted by the Task Force to the legislature that was used in writing the new law. Mr. Hooper was present for the legislative assembly discussions prior to enactment of the law. Mr. Hooper testified that he also had primary involvement in drafting ARL directions regarding this law. Mr. Hooper testified that there is no definitive list of qualifying situations. The application of the law should be on a case-by-case basis. Mr. Hooper testified that it was his opinion that Petitioners' participation in the HOA through Board positions or meetings does not constitute regular participation; statute language says "regularly managing or administering". It is the ranch manager's job to regularly perform the agriculture program work and management, with periodic participation by the HOA Board. With regard to testimony about Petitioners' activities such as riding fence lines, ditches, etc. Mr. Hooper testified that he did not consider the described activities sufficient to make Petitioners integral to the agriculture operation, but they must be considered on a case-by-case basis. Whether or not the person is purposely going out to regularly participate in agriculture functions must be considered. Reporting issues to ranch employees is appropriate, but not integral. Mr. Hooper testified that the owners are primarily using the property for recreation purposes. Simple oversight is not integral to regular business work that gets accomplished. Decisions on the ground level basis is the legislative intent. Mr. Hooper testified that "CEO" oversight is too broad to be meaningful.

Board Conclusions Regarding Agricultural Land Classification

The land classification issue in these cases is a result of House Bill 11-1146, which amended Section 39-1-102(1.6)(a)(I)(A) C.R.S. effective January 1, 2012. The amended statute states:

> "Agricultural land" under this subparagraph (I) shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation.

Section 39-1-102(1.6)(a)(I)(B) C.R.S further states:

> A residential improvement shall be deemed to be "Integral to an agricultural operation" for purposes of Sub-subparagraph (a) of this subparagraph (I) if an individual occupying the residential improvement either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse or a parent, grandparent, sibling, or child of the individual.

The Board finds that these cases are among the first tests of the new law; there is no affirmed case law on this particular issue to provide guidance. No case law was found regarding definitions or application of the terms "integral", "regular", or "material" relative to agriculture classification. The Board reviewed the Task Force report and finds that neither it nor the statute define the terms "integral", "regular", or "material" relative to agriculture classification and little guidance regarding what activities qualify a taxpayer as integral to an agriculture operation is provided. The Task Force report cites pertinent issues including, but not limited to the following:

> 1) Is the agricultural use of the home limited or incidental?
> 2) Is the primary use of the land for a residential home site and is the agricultural use of the land secondary?
> 3) Do the lots have limited feasible agriculture use?
> 4) Are multiple properties involved in a single agriculture operation?
> 5) Is it equitable to all residential taxpayers that some owners obtain an agriculture classification tax break because of a limited, incidental agriculture operation?

The Board concludes that although the cited discussions are not binding relative to the statute, they provide support that the intention of the legislators in pursuing the statutory amendment was to reduce the number of instances where agricultural activities are used to obtain a tax break for properties that have a primarily residential use.

The Board has also relied on the Assessor's Reference Library (the "ARL"), which states the following:

> A person who signs a lease once a year, or only dictates what areas may be used in a specific year does not qualify as integral under § 39-1-102(1.6)(a)(I)(B), C.R.S. The individual must REGULARLY participate in the agricultural operation or be related to the individual in the specified manner. Examples of regular participation may

include bookkeeping for the operation or ongoing physical involvement. ARL VOL. 3, page 5.20.

The Board has relied on testimony by several Petitioners and the ranch manager that none of the residential improvements on Petitioners' lots is used to directly support the agriculture program. Therefore, the Board concludes that these improvements themselves are not integral to the agriculture operation at SMR. This point is not disputed by the parties. The Board next turns its attention to the actions of the individual homeowners to determine whether their activities support agricultural classification for the subject parcels.

The Board finds that the Storm Mountain Ranch Declarations state that "...Declarant is developing the Ranch Property as a residential planned community." Although Petitioners claim that the entire SMR property was founded and exists to preserve and promulgate agricultural operations, the Board concludes that Petitioners use the SMR property first and foremost as a rural residential community with extensive natural recreational amenities. The Board has relied on the testimony of Petitioners' witnesses that the agricultural program enhances the property aesthetics and values, and meets the Assessor's requirements to qualify for agricultural classification for tax assessment purposes. The Board concludes that being good stewards of the SMR land does not qualify Petitioners as integral to the agriculture operation.

The Board finds that through the Declarations, the individual Petitioners have relinquished all rights and responsibilities for any agricultural activities conducted on their properties to the HOA. The Board finds that although Petitioners are members of the HOA and may or may not serve on the Board and various committees, the HOA is a separate legal entity that removes Petitioners as individuals from direct involvement in HOA activities, including the agriculture program.

The ARL provides guidance that "Examples of regular participation may include bookkeeping for the operation or ongoing physical involvement." Petitioners claim that this statement anticipates that "integral" participation may not always be through physical labor but includes all forms of direct support of the operation. The Board finds that "all forms of direct support" is not included in the ARL language, and finds no support in the language that this was intended.

The Board has considered Petitioners' claims that they perform integral physical labor to support the agriculture. The Board concludes from testimony that SMR employees have primary responsibility for these activities. The Board also was not persuaded that the individual Petitioners have the responsibility for, or regularly do physical repairs that are necessary to the agriculture program. In reaching that conclusion, the Board has relied on a greater preponderance of witness testimony that Petitioners report physical issues on the ranch that need to be addressed to employees. The Board concludes that occasional physical work by some or all Petitioners does not meet the statutory language that an individual occupying the residential improvement "regularly conducts" material aspects of the agricultural operation.

The Board concludes that Petitioners spraying weeds by hand around their residential improvements and even on larger portions of their lots is typical of what most homeowners on non-

agricultural land do and that activity does not rise to the level of integral support of the health of the agricultural operation. The Board concludes that the activities of some or all Petitioners of attending forest fire mitigation training, monitoring and reporting maintenance and livestock issues on the ranch to the employees, or offering ideas regarding the agriculture program do not rise to the level of regular supervision or administration to qualify them as integral to the SMR agriculture operation. Regarding Petitioners' claim that their involvement in forest fire mitigation training and pine beetle mitigation activities are integral to the health of the agriculture program, the Board has relied on testimony by the ranch manager that the property does not have a current forest management plan so none of the property has forest agriculture classification. The Board concludes that these activities, while important for residential communities located in forested areas, relate primarily to the preservation of the residential improvements and not the agriculture program.

The Board acknowledges that physical labor by Petitioners relative to the agricultural activities is not a requirement under the law. In addition to ongoing physical involvement, the example of regular participation cited by the ARL is bookkeeping for the operation. The Board has relied on witness testimony that none of the Petitioners conducts bookkeeping for the agriculture program. Beyond that example, Petitioners claim that their roles as corporate directors and managers of the employees in connection with the agricultural operations, forestry, weed control, water management, and all other parts of land management qualify them as integral to the agriculture operation. Petitioners claim that even though the HOA is responsible for those activities, Petitioners are all members of the HOA, therefore, the Petitioners and the HOA are one and the same. The Board rejects that claim because Petitioners have, in fact, each relinquished that authority and responsibility to the HOA, a separate legal entity. The Board concludes that Petitioners' occasional participation through informal conversations with other owners, the ranch manager, or other employees during chance meetings on the property or at social gatherings does not constitute regular supervision or administration of material aspects of the agricultural operation. The Board further concludes that Petitioners' financial support through HOA dues of agriculture program activities conducted by the HOA does not qualify them as integral to the agriculture activities.

The Board did not find it credible that the agriculture operation could not exist without the financial support and described involvement of Petitioners. The Board relied on testimony that the HOA, through the ranch manager and staff, voluntarily participates in some of the hay production and livestock activities. However, the HOA annually enters into leases with third parties for both the hay production and livestock programs and the work completed by SMR employees may not be included in the leases. Similarly, the responsibility for maintaining the perimeter fencing at SMR may be the lessee's obligation. The Board has relied on testimony that the land encompassed by SMR has been similarly used for limited agricultural activities since at least the 1930s.

After considering the evidence, testimony, and applying the above findings, the Board concludes that Petitioners are not integral to the agriculture program activities at SMR. Therefore, the Board holds that the one-acre land areas underlying the residences on the subject properties do not qualify for agricultural classification.

LAND VALUATION:

Petitioners' Claims

Petitioners contend that, in the event the Board determines that any of schedule numbers are ineligible for agricultural classification, the values for those properties as residential land have been improperly determined. The Colorado statute requires the valuation of the land underlying the residential improvements, but that does not negate Colorado law that value must be based on market value. Specifically, Petitioners contend that Respondent has used inappropriate methodology to value the one-acre parcels. Respondent's use of a 15-acre functional building envelope rather than the legal size of 35 to 70 acres at SMR is arbitrary and not supported by any legal authority. The comparable sales and data relied upon by Respondent were not comparable or germane to the value of the SMR parcels. Because Respondent did not consider key variables in selection of or adjustment to comparable sales, the value conclusion is incorrect. In addition, Respondent relied upon a single sale from 2006 within SMR. The sale was not only too old to be so heavily relied upon, but was not properly adjusted.

Petitioners contend that Respondent has improperly valued the land as improved; proper appraisal methodology is to appraise the land as if vacant and available for development. Respondent has improperly used a paired sales analysis using one to two-acre residential lots to place the majority of the lot value on the one-acre home site resulting in little value given to the remaining land area of each lot. The subject residential sites can only legally be developed if each is part of a larger minimum 35-acre property. The one-acre sites under the residences cannot be sold separately. Each acre within the larger lot has the same contributory value as every other acre. Therefore, the value of the one-acre sites should be the proportional share of the value of the larger lot. Respondent's methodology of estimating value for the subject residential classified land using the sales of small acreage residential sites is not reasonable. Small acreage residential lot sales with higher density are not comparable to the subject lots, which have maximum densities of one residence per 35 acres. Petitioners further contend that Respondent valued the subject properties as if they are all equal, but the values must reflect the individual characteristics of each.

Petitioners claim that the appraisal methodology used in eminent domain valuation is the proper approach to use for the subject properties. That methodology analyzes the contributory value of the land in question to the larger property. In these cases, the contributory value is of the one-acre home sites to each of the larger 35-acre or 70-acre lots. Petitioners contend that this contributory value methodology has been accepted by the courts in eminent domain cases and although this is not an eminent domain situation, the allocation of value to a portion of a larger property applies here.

Petitioners presented testimony of two appraisal expert witnesses to support these claims. Mr. Larry Stark, MAI, is one of the Petitioners in this case and is also an appraisal professional. He testified about appraisal methodology as well as his perceptions about the market. In his view, the appropriate unit of comparison in appraising the subject properties is density. Mr. Robert Maddox, MAI, testified regarding appraisal methodology and about appraisals he performed for each of the subject properties. Mr. Maddox testified that each of the properties is a one of a kind luxury home site and because the one-acre residential sites cannot be sold away from the larger parcel, those sites

do not have rights on their own. Each must be considered part of the larger lot. For example, the one-acre site that is part of a 35-acre lot has 1/35th of the bundle of rights and the value of the larger lot as a whole. Therefore, this situation is similar to eminent domain valuation.

Mr. Maddox presented his appraisal analysis for the subject properties and value conclusions, which are listed in the Addendum to this decision. Mr. Maddox, presented ten comparable vacant land sales that were separated into two subsets: the first set included seven older sales that took place between November of 2003 and July of 2007 and were used to provide a basis for the adjustments made by the witness to the second subset of three newer sales that occurred between June 2008 and July 2010. Mr. Maddox testified that he relied on these first seven sales to provide the basis for his adjustments to the second subset of three newer sales. The appraisals included initial adjustments to the comparable sales for changing market conditions (time), location, and differences in the amenities provided by the subdivisions where the comparable sales are located relative to SMR. Based on his initial analysis, Mr. Maddox concluded to a base value for a 35-acre parcel of $1,500,000 and a base value of $2,150,000 for a 70-acre parcel. The witness then made adjustments to each of the subject properties for what he determined to be site specific amenities including, but not limited to, ski area view, canyon view, and proximity to stream or pond. After concluding to a total value of the land for each of the subject properties, the witness allocated value to the one-acre residential sites on a pro rata basis, dividing one acre by the total acreage for each property. The value conclusions for each property are shown in the Addendum attached to this decision.

Respondent's Claims

Respondent contends that the subject properties should be valued on a per site basis, not a per acre basis.

Ms. Sandra Herbison, employed by the Routt County Assessor's Office and a Certified General Appraiser in Colorado, testified for Respondent. Ms. Herbison testified that each subject property was first appraised as a whole. Because of the flagpole configuration of most of the subject properties, and steep terrain, the witness concluded that the subject lots have similar utility to 15-acre lots that do not have those limitations. The witness testified that the historical sales of SMR lots did not indicate that adjustments for size or the different attributes of each lot were required. Each of the subject lots has the same access to the larger SMR property and amenities, and the witness applied the same land value to each of the parcels regardless of size.

To establish a value for each of the larger parcels, Ms. Herbison presented five comparable vacant land sales. After the witness made adjustments for changing market conditions (time), the availability of utilities, location, access, topography and view, the adjusted sale prices ranged from $1,761,312 to $2,349,200. Ms. Herbison concluded to a value for each of the SMR lots of $2,200,000.

To meet the statutory requirement to appraise the one-acre residential sites determined by Respondent, the witness applied Hypothetical Conditions, as defined by Uniform Standards of Professional Appraisal Practice (USPAP), to analyze the residential land. The first Hypothetical Condition used is that each one-acre site has separate and unique value for this property in carrying

the development right for the existing single family residence on the parcel and is therefore comparable in value to sales with similar size, physical characteristics. property rights and location as that of the one-acre residential site. Additionally, each one-acre site is comparable in value to these same comparable sales that can be bought and sold as independent buildable parcels. The witness concluded that because the right to build one residence has been exercised, each one-acre site contains a stick in the bundle of rights that is no longer contained by each of the remaining acres in the subject parcels.

The witness analyzed one to two-acre site sales in comparison to larger parcels to determine a ratio of value of the residential site to the larger parcel. The additional acreage in the larger parcel is considered surplus land relative to the land underlying the residential improvements. Ms. Herbison testified that as of the assessment date, residential improvements had already been built on the subject properties and no other acreage could be developed, so the residential land value is attributable to the one-acre site. The witness testified that her analysis indicated that 65% of the value of all but one of the larger subject parcels is attributable to the land underlying the residences; 50% of the total value was used for the property identified as Schedule No. R3205567 (Docket 61154) because that parcel has a more level topography and functional lot configuration. The witness testified that residential lots such as the subject properties are purchased as sites, not on a per acre basis, so it is not appropriate to simply divide the value of the larger parcel by the total acres to determine the value of the one-acre residential site.

Board Conclusions Regarding Land Valuation

The Board finds that the value disparity between the parties occurs because of the question of whether the one-acre residential sites have equivalent value of every other acre within the larger subject parcels as claimed by Petitioners, or do the one-acre sites hold the majority of the value within the larger parcel because they are improved with the residences and the balance of the larger parcel acreage can no longer be developed, as claimed by Respondent. The Board finds that both parties agree that the one-acre sites could not legally be developed without being part of a larger minimum 35-acre property and cannot be subdivided and sold away from the larger parcels.

Both parties relied on some sales of lots located in Land Preservation Subdivision (LPS) developments in Routt County where lot sizes are generally five to 10 acres, but preserved open space land within the LPS provides a development density equivalent to one residence per 35 acres, similar to SMR.

In concluding that differences in the development density of the comparable sales relative to the subject properties must be analyzed as a unit of comparison, the Board has relied on testimony that buyers of residential lots in mountain areas place higher value on lots with low density than on lots in higher density developments. The evidence indicates that a five to 10-acre residential lot that is within an LPS development can sell for a price near or similar to that of a 35 or 70-acre lot at SMR or other non-LPS developments because the density of one residence per 35 acres is similar at both developments. The LPS owners also have access to and use of adjacent open space for recreation. Therefore, the Board concludes it is not adequate to simply compare one residential building site to another without the consideration of the developmental density.

The Board is persuaded by Petitioners' argument that for large acreage residential lots such as these, the market does not assign a higher value to the building envelope and a lesser value to the balance of the lot acreage. Buyers purchase a "site" with the legal right to construct a residence somewhere on the property. The Board concludes that the contributory value of the ability to construct a residence on a large acreage lot is inherent in the total price of the lot and because the residential building site cannot legally be subdivided from the larger lot, Respondent's methodology of assigning a large percentage of the total property value to the one-acre home site is not supported by market evidence. The Board concludes that the residence could not legally exist on the subject properties without the 35 minimum acreage. Therefore, Respondent's use of small residential lot sales to estimate a weighted value attributable to the one acre underlying the residence is not a reasonable market comparison.

The Board concludes that the statute creates a jurisdictional exception for assessment valuation purposes by requiring that a separate value be assigned to a portion of a larger property. The statute does not require the land underlying the residence to be valued as a stand-alone residential lot of up to two acres. The Board further concludes that nothing in the plain language of the statute implies that requirement. Because the residential sites are not severable from the larger parcels, the Board is persuaded by Petitioners' argument that each one-acre residential site has a value that is proportional to the larger parcel as a whole. The Board concludes that each one-acre residential site has value because of its contributory value to the larger parcel, not as a severed one-acre residential lot.

In concluding to a value for one acre underlying the residences, the Board has considered all of the vacant land sales presented by both parties that took place during the statutory 60-month extended base period to derive sufficient comparable sales data. The Board places most weight on the sales that were located in LPS developments because they were the most similar to the subject properties in development density restrictions, location in planned subdivisions with shared open space, and would also be considered by potential buyers of a property in SMR. The LPS developments and SMR have differences relative to amenities offered that must also be considered. The Board also gives weight to the 2006 sale of Lot 4 in SMR as the most recent sale of a lot in the subject subdivision. Although the Board agrees with Petitioners that adjustments to the sales for subject property site specific characteristics including but not limited to views, location, water features, access, and topography might be appropriate, the Board finds that Petitioners' appraiser based his adjustments on his appraisal experience alone and provided no supporting market data. Although an accepted appraisal practice, the Board finds that methodology results in individual and cumulative adjustments that are more speculative than if they had been supported by market data. The Board concludes that insufficient market evidence was provided by Petitioners to persuade the Board those adjustments are supportable. The Board has not made a determination as to the value of the remainder acreage (acreage not underlying the residences), as such a finding is outside the scope of Petitioners' appeals. After considering the comparable sales, the Board concludes to an equivalent value of $60,000 per acre for sites similar to the subject properties.

The Board concludes that Petitioners presented sufficient probative evidence and testimony to show that the subject properties were incorrectly valued for tax year 2012. The Board concludes that the 2012 actual value for the one-acre parcel underlying the residences on each of the subject properties should be reduced to $60,000.

ORDER:

The petitions to classify the one-acre parcels of land underlying the residential improvements on individually owned, large acreage residential lots as agricultural land are denied for all of the subject properties.

Respondent is ordered to reduce the 2012 actual values for the one-acre parcels underlying the residences on each of the subject properties to $60,000. The Routt County Assessor is directed to change the county 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-nine 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-nine 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 11th day of December, 2013.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Louesa Maricle

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

Milla Lishchuk

SEAL

ADDENDUM

		PETITIONER		RESPONDENT				
DOCKET	SCHEDULE #	TOTAL VALUE LAND	APPRAISED VALUE 1-ACRE	TOTAL VALUE LAND + IMPROV.	TOTAL VALUE LAND	CALC. LAND VALUE/AC	1 ACRE VALUE LOAD RATIO	VALUE ASSIGNED TO 1-ACRE
61146	R8165355	$2,100,000	$59,812.02	$7,353,610	$2,200,000	$31,263	65%	$715,000
61153	R8165860	Incl. in 61146 total above	---	Incl. in 61146 total above	Incl. in 61146 total above	Incl. in 61146 total above	65%	$715,000
61147	R8164276	$1,650,000	$47,008.55	$5,539,350	$2,200,000	$62,678	65%	$1,430,000
61148	R8165855	$1,800,000	$51,223.68	$7,476,000	$2,200,000	$62,607	65%	$1,430,000
61149	R8164281	$2,100,000	$59,693.01	$3,810,820	$2,200,000	$62,536	65%	$1,430,000
61150	R8164283	$2,782,000	$39,640.92	$6,833,170	$2,200,000	$31,343	65%	$1,430,000
61151	R8164285	$1,680,000	$47,808.76	$4,256,760	$2,200,000	$62,607	65%	$1,430,000
61152	R8165318	$2,100,000	$59,982.86	$9,551,450	$2,200,000	$62,839	65%	$1,430,000
61154	R3205567	$1,200,000	$34,090.91	$2,059,680	$2,200,000	$62,821	50%	$1,100,000
61155	R8164284	$2,345,000	$33,347.55	$3,486,200	$2,200,000	$31,343	65%	$1,430,000
61156	R8165857	$1,650,000	$47,102.48	$6,018,160	$2,200,000	$62,803	65%	$1,430,000
61157	R8164280	$1,800,000	$51,136.36	$3,709,110	$2,200,000	$62,500	65%	$1,430,000
61158	R8164275	$1,650,000	$47,129.39	$4,982,530	$2,200,000	$62,839	65%	$1,430,000

COLORADO COURT OF APPEALS

DATE FILED: April 23, 2015
CASE NUMBER: 2014CA42

Court of Appeals No. 14CA0042
Colorado State Board of Assessment Appeals
Case Nos. 61146, 61147, 61148, 61149, 61150, 61151, 61152, 61153, 61154, 61155, 61156, 61157, 61158

Iris E. Behr; John W. Muir; Becherer Steamboat Properties, LLC; Link Family Trust; Albert Shafer Henry Trust; John O. Peterson as Trustee; Larry W. Stark; Virginia E. Srednicki; Richard J. Srednicki; Iris Behr Revocable Trust; Mary K. Allen as Trustee; SMR 8, LLC; Tom Kartsotis; Lynn Kartsotis; Douglas C. Floren,

Petitioners-Appellees,

and

Colorado State Board of Assessment Appeals,

Appellee

v.

Routt County Board of Commissioners,

Respondent-Appellant.

ORDER REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division VI
Opinion by JUDGE FOX
Plank*, J., concurs
J. Jones, J., concurs in the judgment

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)
Announced April 23, 2015

Exhibit 2

Wass Campbell Rivera Johnson & Velasquez, LLP, Mikaela V. Rivera, Denver, Colorado, for Petitioners-Appellees

Cynthia H. Coffman, Attorney General, Krista Maher, Assistant Attorney General, Denver, Colorado, for Appellee

John D. Merrill, County Attorney, Erick Knaus, Assistant County Attorney, Steamboat Springs, Colorado, for Respondent-Appellant

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2014.

Appellant, the Routt County Board of Commissioners (the County) appeals an order by appellee, the Colorado State Board of Assessment Appeals (BAA), valuing certain real property in Routt County for tax purposes. The property at issue is owned by petitioners-appellees Iris E. Behr; John W. Muir; Becherer Steamboat Properties, LLC; Link Family Trust; Shafer Henry Trust; John O. Peterson as trustee; Larry W. Stark; Virginia E. Srednicki; Richard J. Srednicki; Iris Behr Revocable Trust; Mary K. Allen as trustee; SMR 8 LLC; Tom Kartsotis; Lynne Kartsotis; and Douglas C. Floren (collectively the taxpayers). We reverse the BAA's order and remand the case with directions.

I. Background

The taxpayers own residential property within Storm Mountain Ranch (SMR), a 1083-acre ranch community in Routt County. There are fourteen residential lots on SMR, each consisting of thirty-five or seventy acres (the residential lots).[1] Development on the residential lots is restricted by various easements, covenants, and other restrictions on the land, so the lots are largely

[1] This appeal concerns only the thirteen lots referenced by docket number in the written BAA order that is the subject of this appeal.

undeveloped. There is, however a one-acre residential parcel (the footprint) on each of the residential lots, where the lot owner's residence sits.

Before 2012, all of SMR — including the footprints — was classified as "agricultural land" for tax purposes. *See* Ch. 316, sec. 86, § 39-1-102(1.6)(a)(I), 2004 Colo. Sess. Laws 1208 (defining "agricultural land" as "[a] parcel of land . . . used as a farm or a ranch . . . [including] any residential improvement located [thereon]"). "Agricultural land" is valued and taxed differently than "residential land." *See* § 39-1-103(5)(a), C.R.S. 2014. Thus, as a result of the footprints' "agricultural land" classification before 2012, the taxpayers paid less in taxes than they would have if the footprints had been classified as "residential land" for tax purposes.

In 2011, however, the Colorado legislature amended the definition of "agricultural land" in the property tax scheme to exclude "two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on said land." Ch. 166, sec. 1, § 39-1-102(1.6)(a)(I)(A), 2011 Colo. Sess. Laws 571; § 39-1-102(1.6)(a)(I)(A), C.R.S. 2014. Following the amendment, the

County reclassified the footprints as "residential land." This appeal does not challenge the residential classification.[2]

After the reclassification, the county assessor appraised the footprints. The assessor valued each residential lot — regardless of the lot's size, location, or unique characteristics — at $2,200,000. Attributing sixty-five percent of each lot's value to the one-acre footprints, the assessor valued each footprint at $1,430,000. The owners appealed the valuation to the BAA.

The BAA held a hearing on the matter, where the taxpayers argued that the assessor had erred by attributing sixty-five percent of the value of each lot to the footprint. Due to the myriad easements, covenants, and other restrictions on the sale and development of the lots, the taxpayers explained, the one-acre parcels could not be developed, subdivided, or sold apart from the larger lots. Therefore, the taxpayers argued, it was inappropriate to value the parcels as though they were stand-alone residential lots. A better method, they asserted, was to recognize that the footprints

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[2] The taxpayers appealed the reclassification to the County and then to BAA, and the BAA affirmed the County's classification of the one-acre parcels as residential. The taxpayers do not challenge the BAA's ruling in this appeal.

could not exist without the rest of the lots. The taxpayers proposed valuing the footprints at the same dollar amount as every other acre of the residential lot.

The BAA agreed with the taxpayers. After holding a hearing on the matter, the BAA determined that "the market does not assign a higher value to the building envelope [on which the footprints are located] and a lesser value to the balance of the lot acreage" because the footprint "cannot be legally subdivided from the larger lot." Therefore, it concluded that the assessor had incorrectly valued the footprints and that the market value of the one-acre footprints was the same as the market value of every other acre in the lot. The BAA reversed the assessment in a written order, valuing each footprint at $60,000. The BAA, like the assessor, apparently did not distinguish between the thirty-five-acre lots and the seventy-acre lots, and did not give consideration to the location or specific attributes of each footprint. The County appealed the BAA's order.

II. Discussion

The County contends that the BAA wrongly valued the footprints at $60,000. It argues that the BAA erred by (1) failing to

assess the footprints as though they were stand-alone residential lots; (2) failing to consider the unique characteristics of each footprint when assessing the footprint's value; and (3) violating the constitutional requirement of uniform taxation. We conclude that there is insufficient evidence in the record to support the BAA's order valuing the footprints at $60,000, and therefore remand the matter to the BAA for further proceedings. We need not address the County's final claim of error to resolve this appeal, and we therefore decline to do so.

A. Applicable Law and Standard of Review

We review BAA decisions in accordance with section 24–4–106, C.R.S. 2014. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 208 (Colo. 2005), *as modified on denial of reh'g* (Jan. 31, 2005); *see also* § 39–8–108(2), C.R.S. 2014. "A decision of the [BAA] may be set aside only if it is unsupported by competent evidence or if it reflects a failure to abide by the statutory scheme for calculating property tax assessments." *Sampson*, 105 P.3d at 208; *see also* § 24-4-106(7). "It is the function of the BAA, not the reviewing court, to weigh the evidence and resolve any conflicts." *Sampson*, 105 P.3d at 208.

B. Discussion

1. Failure to Value the Footprints as Stand-alone Residential Lots

The County first argues that the BAA erred by failing to value the footprints as though they were stand-alone residential lots. In its view, the 2011 amendments to section 39-1-102(1.6)(a)(I)(A) require assessment by this method. We disagree.

Section 39-1-102(1.6)(a)(I)(A) addresses only how real property should be classified for tax purposes; it is silent regarding how property should be valued once it has been classified. The value of land and its classification for property tax purposes are separate questions. *Compare* § 39-1-102(1.6)(a)(I)(A), *with* § 39-1-103(5)(a).

The valuation of residential real property is governed by section 39-1-103(5)(a) and article X, section 20(8)(c) of the Colorado Constitution. Under section 39-1-103(5)(a), "[a]ll real and personal property shall be appraised and the actual value thereof [determined] for property tax purposes." The "actual value" of residential property must be "determined solely by the market approach to appraisal." Colo. Const. art. X, § 20(8)(c); *Antolovich v. Brown Grp. Retail, Inc.*, 183 P.3d 582, 595 (Colo. App. 2007). Under the market approach, the actual value of a property for property tax

purposes is "equivalent to determination of market value." *Antolovich*, 183 P.3d at 595. Market value is the amount "a willing buyer would pay a willing seller under normal economic conditions." *May Stores Shopping Ctrs., Inc. v. Shoemaker*, 151 Colo. 100, 110, 376 P.2d 679, 683 (1962). "In determining a property's actual value for assessment purposes, the assessor must consider the property's specific attributes." *Arapahoe Cnty. Bd. of Equalization v. Podoll*, 935 P.2d 14, 18 (Colo. 1997). The "market approach" requires the appraiser to consider "a representative body of sales, including sales by a lender or government, sufficient to set a pattern," and "similarities and dissimilarities among properties that are compared for assessment purposes." § 39–1–103(8)(a)(I); *Antolovich*, 183 P.3d at 595. Nothing in section 39-1-102(1.6)(a)(I)(A) purports to alter the valuation methodology prescribed by the constitution's article X, section 20(8)(c) and section 39-1-103(5)(a). Because section 39-1-102(1.6)(a)(I)(A) deals exclusively with the proper classification of real property for tax purposes, we reject the County's argument that that provision compelled the BAA to value the footprints using any approach other than the market approach prescribed by article X, section 20(8)(c)

and section 39-1-103(5)(a). We therefore focus our analysis on whether the BAA's valuation is consistent with those provisions.

2. Failure to Consider Each Footprint's Unique Characteristics

The County argues that the BAA ignored the specific characteristics of each footprint when determining the footprints' values, and therefore failed to assess each footprint at its "actual value" as required by section 39-1-103(5)(a). Because there is no competent evidence in the record supporting the BAA's conclusion that every footprint should be valued at $60,000, we cannot conclude that the BAA abided by the statutory scheme for assessing residential real property. *See Sampson*, 105 P.3d at 208.

At the hearing, the taxpayers presented the testimony of two appraisal experts. The first expert testified that the footprints do not, by themselves, have any independent use or value. Covenants and restrictions on the land, the expert explained, prohibit the taxpayers from dividing the residential lots or selling a footprint separately from the rest of the lot on which it lies. The second expert — who also owned property within SMR — testified that the zoning restrictions on SMR limited development of the property so that residential improvements on the property could not be built on

lots smaller than thirty-five acres. Therefore, the experts opined, the market value of a one-acre footprint in SMR is the same as the market value of every other acre in the residential lot where the footprint is located. The BAA agreed and reversed the assessor's valuation in a written order. In its order, the BAA valued each footprint at $60,000.

The BAA's order does not clearly explain how the BAA reached its valuation conclusion, but it appears that the BAA assigned a value of $2,200,000 — the value proposed by the County — to each residential lot, regardless of the lot's size. It then adopted the taxpayers' reasoning that every acre of a lot should be assigned the same value, and divided the $2,200,000 lot valuation by thirty-five to get an approximate per-acre value of $62,857.14 for the thirty-five acre lots. It then apparently rounded that number down and valued every footprint, regardless of its location or special characteristics, at $60,000. There is insufficient information in the record to support the BAA's valuation.[3] *See Sampson*, 105 P.3d at 208.

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[3] Both parties cite the Assessor's Reference Library (ARL), a guide to real property valuation, in support of their arguments. But only a

To determine a property's actual value, an assessor must consider the property's specific attributes. *Podoll*, 935 P.2d at 17. The evidence presented at the BAA hearing indicated that each footprint is unique: some are located on thirty-five-acre lots, others on seventy-acre lots; some have mountain views, some have canyon views, some have valley views; some are close to streams and ponds, while others are near hiking and horseback riding trails. Each of these unique characteristics was discussed at the BAA hearing. Nevertheless, the BAA apparently disregarded the specific characteristics of each lot and assigned the same value to each footprint, regardless of the size of the lot where it was located or the footprint's unique specific attributes. *See id.* at 18. Nothing in the record supports this valuation method.

Because there is no competent evidence in the record to support the BAA's valuation of every footprint at $60,000, we must reverse the BAA's valuation conclusion and remand the matter to

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short, outdated excerpt of the ARL appears in the record. The record contains just twenty pages of the 1986 update to the ARL. It is unclear whether the BAA relied on this excerpt, or whether it would have been proper for the BAA to do so. The BAA, in compiling the record for appeal, indicated that the excerpt was neither offered nor accepted as evidence at the BAA hearing in this case.

the BAA for remand to the County for new proceedings and entry of a new assessment. *See 501 S. Cherry Joint Venture v. Arapahoe Cnty. Bd. of Equalization*, 817 P.2d 583, 585-88 (Colo. App. 1991); *see also Sampson*, 105 P.3d at 209.

On remand, the assessor should apply an accepted market approach to determine the actual value of each footprint. It should explain its methodology for reaching that conclusion, and it should give consideration to each parcel's unique characteristics and location. *See Podoll*, 935 P.2d at 16. The BAA should make a full and complete record of its findings. *See* § 24-4-106(6).

III. Conclusion

The BAA's order is reversed, and the case is remanded for further proceedings consistent with this opinion.

JUDGE PLANK concurs.

JUDGE J. JONES concurs in the judgment.

JUDGE J. JONES, concurring in the judgment.

Like the majority, I conclude that the Board of Assessment Appeals' judgment cannot stand. But unlike the majority, I do not believe this is because of a failure of evidentiary support per se. Rather, it is because the BAA's approach to valuing the one-acre residential "footprints" is at odds with the intent of subsections 39-1-102(1.6)(a)(I)(A) and (14.4), C.R.S. 2014. In my view, the General Assembly, in enacting the 2011 amendments to section 39-1-102, intended that the residential footprint of an otherwise agricultural lot be classified, and hence valued, as a stand-alone residential parcel. Therefore, I would remand the case to the BAA to consider the Routt County Board of Commissioners' evidence in light of that requirement.

Article 1 of title 39 of the Colorado Revised Statutes comprises general provisions regarding property tax determinations. Section 39-1-102 contains definitions of terms used elsewhere in property tax laws. Subsection (1.6)(a) defines "[a]gricultural land," and subsection (14.4) defines "[r]esidential land."

Before passage of House Bill 11-1146 in 2011, these definitions resulted in a residence on agricultural land being

assessed at the residential assessment rate, though the land underneath such a residence was classified, valued, and assessed as agricultural land. As a further result, an owner of a lot classified as agricultural land on which there was a residence would pay far less in taxes than if the lot were classified as residential land. This is because agricultural land and residential land are valued in different ways and at different rates. Article X, section 3 of the Colorado Constitution provides that for taxation purposes land is to be valued according to its "actual value." For agricultural land the actual value "shall be determined solely by consideration of the earning of productive capacity of such lands capitalized at a rate as prescribed by law."[1] But for residential land, the actual value "shall be determined solely by consideration of cost approach and market approach to appraisal . . . ." Colo. Const. art. X, § 3(a); *see also* § 39-1-103(5)(a), C.R.S. 2014.

In 2011, the General Assembly enacted House Bill 11-1146, amending the definition of agricultural land by, as relevant to this case, deleting language saying that agricultural land "includes land

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[1] That capitalization rate is currently thirteen percent. § 39-1-103(5)(a), C.R.S. 2014.

underlying any residential improvement located on such land," and adding that agricultural land "shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land." Ch. 166, sec. 1, § 39-1-102(1.6)(a)(I)(A), 2011 Colo. Sess. Laws 571. The General Assembly also added the following to the definition of "[r]esidential land" in subsection (14.4): "The term also includes two acres or less of land on which a residential improvement is located where the improvement is not integral to an agricultural operation conducted on such land." Ch. 166, sec. 1, § 39-1-102(14.4), 2011 Colo. Sess. Laws 572. Thus, the land underneath a residence on otherwise agricultural land must now be classified as residential if the residence is not integral to an agricultural operation, though the remainder of a lot may be classified as agricultural land. In effect, the General Assembly required that, where a residence on an otherwise agricultural lot is not integral to an agricultural operation, for tax classification purposes the lot must be treated as two parcels, one agricultural and the other (not to exceed two acres) residential.

The BAA's method of valuing the residential footprints in Storm Mountain Ranch did not comport with amended section 39-1-102. Though the BAA purported to classify the footprints as residential, to determine "market values" of the footprints, it first determined the residential market values of the entire thirty-five and seventy acre lots. In effect, therefore, the BAA classified the entire lots as residential. Acting from this premise, it then treated each acre on the lots as indistinguishable from each other, even though the vast majority of the "market value" of each lot obviously derives from the residential footprint. It did this by taking the residential market value of each entire lot, then dividing that value by thirty five.[2] In no sense do the BAA's values of the residential footprints represent the "market values" of these parcels.

The BAA took this approach because the residential footprints cannot be sold separately from the remainder of the lots. That is beside the point. The General Assembly, to create a more equitable tax regime, has dictated that a lot such as that in Storm Mountain Ranch be treated as two — separately and differently classified and

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[2] Why the BAA did not value the residential footprints on the seventy acre lots by dividing the residential market value of the whole by seventy is not shown by the record.

therefore separately and differently valued. Nowhere did the General Assembly indicate in House Bill 11-1146 that whether the two-acre-or-less residential footprint could be sold separately is a relevant consideration. And, as discussed more fully below, doing so undermines, indeed contravenes, the law's purpose.

It seems clear to me that the classification method dictated by the General Assembly — classifying a single lot as two different parcels — dictates that the residential footprints be valued as stand-alone parcels. But even if I assume the statute is ambiguous as to valuation, I would conclude that determining market value based on stand-alone residential parcels is required.

To resolve any perceived ambiguity, I look to various principles of statutory construction. *See St. Vrain Valley Sch. Dist. RE-1J v. A.R.L.*, 2014 CO 33, ¶ 11; *see also* § 2-4-203(1), C.R.S. 2014.

The legislative history is particularly enlightening. *See Daniel v. City of Colo. Springs*, 2014 CO 34, ¶ 12 (if a statute is ambiguous, the court may consider the legislative history); *see also* § 2-4-203(1)(c) (same). House Bill 11-1146 actually had its genesis in a bill from the previous year, House Bill 10-1293. That bill created a task force to study property tax assessment classification of

agricultural property. Ch. 357, sec. 1, § 39-1-122 (repealed), 2010 Colo. Sess. Laws 1699.[3] In the declaration of purpose, the General Assembly stated that "[p]roperty actively used for agricultural purposes should be protected against excessive property valuation and taxation, but agricultural classification that benefits property not actively used for agricultural operation should be reevaluated . . . ." Ch. 357, sec. 1, § 39-1-122(1)(f) (repealed), 2010 Colo. Sess. Laws 1700; *see St. Vrain Valley Sch. Dist. RE-1J*, ¶ 11 (a legislative declaration of purpose is one of the best guides to legislative intent); *see also* § 2-4-203(1)(g). The statute created a task force "to study assessment and classification of agricultural and residential land, report its finding and recommendations, and, if appropriate, propose statutory modifications to ensure that land is *valued* based on its actual use." Ch. 357, sec. 1, § 39-1-122(2)(a) (repealed), 2010 Colo. Sess. Laws 1700 (emphasis added).

The task force created by section 39-1-122 met on several occasions. During one meeting, a representative of county tax assessors presented the results of a survey of assessors showing

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[3] Section 39-1-122 was repealed by its own terms on July 1, 2012. Ch. 357, sec. 1, § 39-1-122(7), 2010 Colo. Sess. Laws 1701.

that "equality is the assessors' primary concern." The assessors' representative presented several examples of perceived inequality, including, as most relevant here, (1) a lot with minimal agricultural usage nevertheless being classified as agricultural though other lots within the same tract were classified as residential; (2) two neighboring platted subdivisions, one with residential lots classified as agricultural because of "incidental" agricultural operations and the other with identically sized residential lots classified as residential; and (3) two similar small acreage residential lots, classified differently though the "secondary use" of both was a "hobby farm." In each example, the different classifications resulted in drastically different valuations and tax bills. These materials were included in the task force's report to the General Assembly. *See* The Land Assessment and Classification Task Force, Final Report, at 75-97 (October 15, 2010), http://perma.cc/BE4M-6NHF (Task Force Report); *see also Dawson v. Reider*, 872 P.2d 212, 215-16 (Colo. 1994) (considering a report prepared by a legislatively created task force).

The Task Force Report said that "[t]he impetus for [section 39-1-122] was the recognition that some homeowners are claiming an

agricultural classification without being a part of a bona fide agricultural operation on the corresponding land." Task Force Report at 2. In noting the perspective of various task force members, the Task Force Report had this to say about the perspective of county commissioner members of the task force (two of the nine members):

> The county commissioner members of the task force emphasized their desire to not negatively impact legitimate agricultural operations. There are loopholes in the existing statutory definition of "agricultural land" which some landowners are using to their advantage. This creates an equity issue. The ability of some entrepreneurial land owners to take advantage of these loopholes does not make it right. Furthermore, these individuals use public services like roads, libraries, parks and schools just like all other taxpayers and should pay their fair share. Absent tighter definitions, second homeowners and developers will continue to take advantage of the current situation and claim an agricultural classification for their land.

Id. at 4.

The Task Force Report also noted the concerns of representatives of the agricultural community (four of the nine members) who focused on "keeping agriculture a viable business" and expressed concern about the unintended consequences of

amending agricultural statutes and those of county assessors (two of the nine members) who focused on the need to standardize classification rules and create "[b]etter — and possibly stricter guidelines" for classifying agricultural property. *Id.*[4]

The Task Force Report recommended that the General Assembly (1) "[e]stablish a maximum of 2 indiscriminate acres that are subject to residential classification when the residence is not integral to an agricultural operation"; (2) "[s]pecify that when the lot size is less than the determined indiscriminate acreage, the portion of the lot not used for agricultural purposes should be subject to residential classification when the residence is not integral to an agricultural operation"; and (3) "[r]equire the Division of Property Taxation with legislative guidance to define 'integral to an agricultural operation'" considering various factors. *Id.* at 5.

Following presentation of the Task Force Report, Representative Massey introduced House Bill 11-1146, which essentially tracked the task force's recommendations. The bill was entitled: "Concerning a requirement that a residence be integral to

---

[4] The ninth member of the task force was Colorado's Property Tax Administrator.

an agricultural operation in determining whether two acres or less associated with the residence satisfies the definition of agricultural land for property tax purposes." Ch. 166, 2011 Colo. Sess. Laws 571; *see Larson v. Sinclair Transp. Co.*, 2012 CO 36, ¶ 8 (if a statute is ambiguous, the court may consider its title); *L.E.L. Constr. v. Goode*, 867 P.2d 875, 877 n.3 (Colo. 1994) (same).

The bill was assigned to the House Agriculture Committee. At the first committee hearing on the bill, Representative Massey introduced the bill and explained that it "deals with the residential piece of property that's in association or not in association with an agricultural operation." He referred to the tax treatment of residential property on agricultural land as an "equity issue," and explained that allowing such residential property to be classified as agricultural was "a legal loophole" that has been "abused." *Hearing on H.B. 11-1146 before H. Agric. Comm.*, 68th Gen. Assemb., 1st Sess. (Feb. 21, 2011) (statement of Rep. Massey); *see Vensor v. People*, 151 P.3d 1274, 1279 (Colo. 2007) (testimony of a bill's sponsor concerning its purpose "can be powerful evidence of legislative intent").

Hap Channell, a member of the task force (and a county commissioner), testified in favor of the bill. He too characterized the issue addressed by the bill as "mostly about tax equity" and complained of the "blatant inequity of the status quo." *Hearing on H.B. 11-1146 before H. Agric. Comm.*, 68th Gen. Assemb., 1st Sess. (Feb. 21, 2011) (statement of Hap Channell); *see Carruthers v. Carrier Access Corp.*, 251 P.3d 1199, 1206 (Colo. App. 2010) (if a statute is ambiguous, the court may consider the testimony of witnesses who testified at legislative hearings); *see also Dawson*, 872 P.2d at 215 n.6 (considering the legislative hearing testimony of a person who had served on a legislatively created task force).

Jim Everson, representing the Jefferson County Assessor's Office, also testified in favor of the bill. He emphasized the need for equal treatment of similar properties. *Hearing on H.B. 11-1146 before H. Agric. Comm.*, 68th Gen Assemb., 1st Sess. (Feb. 21, 2011) (statement of Jim Everson)

After the House passed the bill, it went to the Senate, where it was assigned to the Senate Agricultural Committee. At the committee hearing, Senator Steadman, also a sponsor of the bill, explained that the bill addressed "an issue of tax equity and

fairness," noting that treating residential property on agricultural land that is not integral to an agricultural operation differently than other residential property around the state is inequitable. *Hearing on H.B. 11-1146 before the S. Agric. Comm.*, 68th Gen. Assemb., 1st Sess. (Apr. 14, 2011) (statement of Sen. Steadman). Mr. Channell spoke in favor of the bill, making comments similar to those he had made to the House Agricultural Committee. *Id.* (statement of Hap Channell)

The bill was ultimately enacted without significant relevant amendments.[5]

Reading the text of House Bill 11-1146 in light of the legislative history, it is clear to me that the General Assembly sought to eliminate the disparity in the tax treatment of similar residential properties. The General Assembly made a policy judgment that a residence (and the land beneath it) that is not integral to an agricultural operation should not be treated as agricultural land for tax purposes. To accomplish this goal, the General Assembly required that a two-acre-or-less parcel on a larger agricultural lot be classified as residential property for tax

[5] There was no significant opposition to the bill.

purposes (if not integral to an agricultural operation). The remainder of the lot will still be classified as agricultural. In effect, the entire lot is to be treated as two different parcels for tax purposes.

It seems to me that the only way to comply with the statute, as amended by House Bill 11-1146, is to treat the residential footprints as stand-alone parcels for classification purposes and also for valuation purposes. Only in this way will similar residential properties be treated truly similarly for tax purposes, as the legislative history shows the General Assembly intended.

Accordingly, I would remand the case to the BAA to value the residential footprints as if they are stand-alone residential lots. The BAA should consider whether Routt County's valuation method is a proper way to do that.

Court of Appeals

STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203
(720) 625-5150

CHRIS RYAN
CLERK OF THE COURT

PAULINE BROCK
CHIEF DEPUTY CLERK

NOTICE CONCERNING ISSUANCE OF THE MANDATE

Pursuant to C.A.R. 41(b), the mandate of the Court of Appeals may issue forty-three days after entry of the judgment. In worker's compensation and unemployment insurance cases, the mandate of the Court of Appeals may issue thirty-one days after entry of the judgment. Pursuant to C.A.R. 3.4(l), the mandate of the Court of Appeals may issue twenty-nine days after the entry of the judgment in appeals from proceedings in dependency or neglect.

Filing of a Petition for Rehearing, within the time permitted by C.A.R. 40, will stay the mandate until the court has ruled on the petition. Filing a Petition for Writ of Certiorari with the Supreme Court, within the time permitted by C.A.R. 52(b) will also stay the mandate until the Supreme Court has ruled on the Petition.

BY THE COURT: Alan M. Loeb
Chief Judge

DATED: October 23, 2014

Notice to self-represented parties: *The Colorado Bar Association provides free volunteer attorneys in a small number of appellate cases. If you are representing yourself and meet the CBA low income qualifications, you may apply to the CBA to see if your case may be chosen for a free lawyer. Self-represented parties who are interested should visit the Appellate Pro Bono Program page at http://www.cobar.org/index.cfm/ID/21607.*

BOARD OF ASSESSMENT APPEALS
STATE OF COLORADO
1313 Sherman Street, Room 315
Denver, CO 80203
(303) 866-5880

ROUTT COUNTY SCHEDULE NO. R8165355	**DOCKET NO. 61146**
ROUTT COUNTY SCHEDULE NO. R8164276	**DOCKET NO. 61147**
ROUTT COUNTY SCHEDULE NO. R8164279	**DOCKET NO. 61148**
ROUTT COUNTY SCHEDULE NO. R8164281	**DOCKET NO. 61149**
ROUTT COUNTY SCHEDULE NO. R8164283	**DOCKET NO. 61150**
ROUTT COUNTY SCHEDULE NO. R8164285	**DOCKET NO. 61151**
ROUTT COUNTY SCHEDULE NO. R8165318	**DOCKET NO. 61152**
ROUTT COUNTY SCHEDULE NO. R8165860	**DOCKET NO. 61153**
ROUTT COUNTY SCHEDULE NO. R3205567	**DOCKET NO. 61154**
ROUTT COUNTY SCHEDULE NO. R8164284	**DOCKET NO. 61155**
ROUTT COUNTY SCHEDULE NO. R8165857	**DOCKET NO. 61156**
ROUTT COUNTY SCHEDULE NO. R8164280	**DOCKET NO. 61157**
ROUTT COUNTY SCHEDULE NO. R8164275	**DOCKET NO. 61158**

Petitioners: IRIS E. BEHR AND JOHN W. MUIR, BECHERER STEAMBOAT PROPERTIES, LLC, LINK FAMILY TRUST, JOHN O. PETERSON, TRUSTEE OF THE ALBERT SHAFER HENRY TRUST, LARRY W. STARK, VIRGINIA E. AND RICHARD J. SREDNICKI, IRIS E. BEHR AND JOHN W. MUIR, IRIS BEHR REVOCABLE TRUST, MARY K. ALLEN AS TRUSTEE, SMR 8, LLC, TOM AND LYNNE KARTSOTIS, and DOUGLAS C. FLOREN

v.

Respondent: ROUTT COUNTY BOARD OF EQUALIZATION.

Petitioners' Representative of Record:
Mikaela V. Rivera, #34085
WAAS CAMPBELL RIVERA JOHNSON & VELASQUEZ LLP
1350 Seventeenth Street, Suite 450
Denver, CO 80202
Telephone: (720) 351-4700
Facsimile: (720) 351-4745
rivera@wcrlegal.com

Attorney for Respondent:
Erick Knaus, Reg. No. 33389
Routt County Attorney
522 Lincoln Avenue
P.O. Box 773598
Steamboat Springs, Colorado 80477
Phone Number: (970) 870-5350
Fax Number: (970) 870-5381

STIPULATION

Exhibit
3

Petitioners and Respondent hereby enter into this Stipulation regarding the subject properties, and jointly move the Board of Assessment Appeals ("BAA") to enter an order based on this Stipulation.

Petitioners and Respondent agree and stipulate as follows:

1. The properties subject to this Stipulation are listed in **Exhibit A**, attached hereto and incorporated by reference (collectively referred to as the "Properties"). In general, the properties are 13 parcels in Storm Mountain Ranch, an agricultural and residential development near Steamboat Springs, Colorado.

2. The Properties currently are classified as residential and agricultural.

3. The County Assessor originally assigned an actual value to the Properties for tax year 2012 as set forth on **Exhibit B** hereto.

4. After a timely appeal to the County Board of Equalization, the County Board of Equalization valued the Properties as set forth on **Exhibit C** hereto.

5. After timely appeal to the BAA, the BAA valued the Properties as set forth in its Order of December 11, 2013 attached hereto to as **Exhibit D.**

6. After timely appeal to the Colorado Court of Appeals, the Court of Appeals partially overturned the BAA decision and remanded the matter for further proceedings. Based on the Order on Remand dated June 29, 2015, the County Assessor assigned an actual value to the Properties for tax year 2012 as set forth on **Exhibit E** hereto.

7. After further review and negotiation, Petitioners and Respondent have agreed to an actual value for the Properties for tax year 2012, which is shown on **Exhibit F** hereto and referred to as the "Full Parcel Value."

8. Further, the parties agree that the non-integral residential building envelope actual value as authorized by HB 11-1146 ("Building Envelope Values") is 10% of the Full Parcel Value ("Ten Percent Methodology"). The Ten Percent Methodology results in actual values for the Properties for tax year 2012 as shown on **Exhibit G** attached hereto.

9. The Building Envelope Values shall be binding only with respect to tax year 2012. Nothing herein shall be construed to be a stipulation as to the Building Envelope Value or the Entire Parcel Value as to subsequent tax years but only as to the methodology used to determine the Building Envelope Value with respect to tax year 2012.

10. The stipulation as to Building Envelope Value results in Total Actual Values as shown on **Exhibit H** attached hereto which reflects the actual values of the subject properties agreed to by Petitioners and Respondent.

11. Nothing herein shall preclude the Petitioners' ability or constitute a waiver of their rights to challenge the Building Envelope Value, Entire Parcel Value or any other actions by the County or the Assessor related to the valuation of the Properties for future tax years.

12. Both parties have reevaluated their methodologies used to determine the Building Envelope Actual Value and then compared those results. This stipulation is a compromise of the parties' methodologies.

13. Hearings on all matters are currently scheduled for April 26 through May 4, 2016. The parties hereto request that those hearings be vacated.

DATED this 14th day of April, 2016.

WAAS CAMPBELL RIVERA JOHNSON & VELASQUEZ LLP

By: _____
Mikaela V. Rivera

Petitioners' Representative of Record

ROUTT COUNTY ATTORNEY

By: _____
Erick Knaus

Respondent's Representative of Record

ROUTT COUNTY ASSESSOR

By: _____
Gary J. Peterson
P.O. Box 773210
Steamboat Springs, CO 80477
(970) 870-5544

Exhibit A

Properties Subject to Stipulation

(collectively referred to as the "Properties")

Owner Name (abbr)	2012 BAA Docket #	Assessor's Schedule	Parcel	Acre Size
Behr Rev Trust	61154	R3205567	Ranch Central	35.02
Floren	61158	R8164275	1	35
Becherer	61147	R8164276	2	35.1
Link	61148	R8164279	5	35.14
Karsotis	61157	R8164280	6	35.2
Peterson	61149	R8164281	7	35.18
SMR 8	61156	R8165857	8	35.03
Henry	61150	R8164283	9	70.19
Allen Trust	61155	R8164284	10	70.32
Stark	61151	R8164285	11	35.14
Srednicki	61152	R8165318	12	70
Behr/Muir	61146	R8165355	Canyon Parcel A	35.11
Behr/Muir	61153	R8165860	Canyon Parcel B	35.26

Total: 13

Exhibit B

Assessor's Original Assigned Total Actual Values

2012 Notice of Valuations: Original sent May 1st, 2012

Owner	Schedule	Abstract Code - Description	Actual Value
Behr Rev Trust	R3205567	4147 Grazing Land	$0
Ranch Central		4277 Farm/Ranch Res Imps	$0
		4137 Meadow Hay Land	$16,190
		1277 Res Imps non-integral	$613,490
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$2,279,680
Floren	R8164275	4147 Grazing Land	$710
Parcel 1A		4277 Farm/Ranch Res Imps	$0
		4127 Dry Farm Land	$170
		1277 Res Imps non-integral	$3,551,650
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$5,202,530
Becherer	R8164276	4147 Grazing Land	$750
Parcel 2A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$3,888,600
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$5,539,350
Link	R8164279	4147 Grazing Land	$750
Parcel 5A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$6,045,250
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$7,696,000
Karsotis	R8164280	4147 Grazing Land	$750
Parcel 6		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$2,278,360
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$3,929,110
Peterson	R8164281	4147 Grazing Land	$750
Parcel 7A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$2,380,070
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$4,030,820
SMR 8	R8165857	4147 Grazing Land	$750
Parcel 8B		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$4,587,410
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$6,238,160

Exhibit B

Assessor's Original Assigned Total Actual Values

2012 Notice of Valuations: Original sent May 1st, 2012

Owner	Schedule	Abstract Code - Description	Actual Value
Henry	R8164283	4147 Grazing Land	$1,520
Parcel 9		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$5,401,650
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$7,053,170
Allen Trust	R8164284	4147 Grazing Land	$1,530
Parcel 10		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$2,054,670
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$3,706,200
Stark	R8164285	4147 Grazing Land	$750
Parcel 11A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$2,826,010
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$4,476,760
Srednicki	R8165318	4147 Grazing Land	$750
Parcel 12A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$8,120,700
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$1,650,000
			$9,771,450
Behr/Muir	R8165355	4147 Grazing Land	$750
Canyon Parcel A		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$5,191,510
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$836,000
			$6,028,260
Behr/Muir	R8165860	4147 Grazing Land	$750
Canyon Parcel B		4277 Farm/Ranch Res Imps	$0
		1277 Res Imps non-integral	$730,600
		4279 Other Bldgs- Agricultural	$0
		1177 Land non-integral	$814,000
			$1,545,350

Exhibit C

2012 CBOE Valuation

(no change from Assessor level adjustments; Bldg. Env. Values Reduced)

Owner	Schedule	Abstract Code - Description	Actual Value
Behr Rev Trust	R3205567	4147 Grazing	$0
Ranch Central		4277 Farm/Ranch Res Imp	$0
		4137 Meadow Hay	$16,190
		1277 Res Imp non-Int	$613,490
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$2,059,680
Floren	R8164275	4147 Grazing	$710
Parcel 1A		4277 Farm/Ranch Res Imp	$0
		4127 Dry Farm Land Agri	$170
		1277 Res Imp non-Int	$3,551,650
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$4,982,530
Becherer	R8164276	4147 Grazing	$750
Parcel 2A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$3,888,600
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$5,319,350
Link	R8164279	4147 Grazing	$750
Parcel 5A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$6,045,250
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$7,476,000
Karsotis	R8164280	4147 Grazing	$750
Parcel 6		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,278,360
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$3,709,110
Peterson	R8164281	4147 Grazing	$750
Parcel 7A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,380,070
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$3,810,820
SMR 8	R8165857	4147 Grazing	$750
Parcel 8B		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$4,587,410
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$6,018,160

Owner	Schedule	Abstract Code - Description	Actual Value
Henry	R8164283	4147 Grazing	$1,520
Parcel 9		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$5,401,650
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$6,833,170
Allen Trust	R8164284	4147 Grazing	$1,530
Parcel 10		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,054,670
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$3,486,200
Stark	R8164285	4147 Grazing	$750
Parcel 11A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,826,010
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$4,256,760
Srednicki	R8165318	4147 Grazing	$750
Parcel 12A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$8,120,700
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$1,430,000
			$9,551,450
Behr/Muir	R8165355	4147 Grazing	$750
Canyon Parcel A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$5,191,510
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$715,000
			$5,907,260
Behr/Muir	R8165860	4147 Grazing	$750
Canyon Parcel B		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$730,600
		4279 Other Bldgs- Agri	$0
		1177 Land non-Int	$715,000
			$1,446,350

Exhibit D

BAA's Valuation Order

Dated December 11, 2013; each Owner Building Envelope Valued at $60,000

Owner	Schedule	Abstract Code - Description	Actual Value
Behr Rev Trust	R3205567	4147 Grazing	$0
Ranch Central		4277 Farm/Ranch Res Imp	$0
		4137 Meadow Hay	$16,190
		1277 Res Imp non-Int	$613,490
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$689,680
Floren	R8164275	4147 Grazing	$710
Parcel 1A		4277 Farm/Ranch Res Imp	$0
		4127 Dry Farm Land Agri	$170
		1277 Res Imp non-Int	$3,551,650
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$3,612,530
Becherer	R8164276	4147 Grazing	$750
Parcel 2A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$3,888,600
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$3,949,350
Link	R8164279	4147 Grazing	$750
Parcel 5A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$6,045,250
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$6,106,000
Karsotis	R8164280	4147 Grazing	$750
Parcel 6		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,278,360
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$2,339,110
Peterson	R8164281	4147 Grazing	$750
Parcel 7A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,380,070
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$2,440,820
SMR 8	R8165857	4147 Grazing	$750
Parcel 8B		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$4,587,410
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$4,648,160

Owner	Schedule	Abstract Code - Description	Actual Value
Henry	R8164283	4147 Grazing	$1,520
Parcel 9		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$5,401,650
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$5,463,170
Allen Trust	R8164284	4147 Grazing	$1,530
Parcel 10		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,054,670
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$2,116,200
Stark	R8164285	4147 Grazing	$750
Parcel 11A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$2,826,010
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$2,886,760
Srednicki	R8165318	4147 Grazing	$750
Parcel 12A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$8,120,700
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$8,181,450
Behr/Muir	R8165355	4147 Grazing	$750
Canyon Parcel A		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$5,191,510
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$5,252,260
Behr/Muir	R8165860	4147 Grazing	$750
Canyon Parcel B		4277 Farm/Ranch Res Imp	$0
		1277 Res Imp non-Int	$730,600
		4279 Other Bldgs- Agri	$0
		1177 Land non-integral	$60,000
			$791,350

Exhibit E

Assessor's Valuations based Remand Order - dated June 29, 2015

Owner	Schedule	Abstract Code - Description	Actual Value
Behr Rev Trust	R3205567	4147 Grazing Land	$4,710
Ranch Central		4277 Farm/Ranch Res Imps	$23,020
		4137 Meadow Hay Land	$16,190
		1277 Res Imps non-integral	$738,570
		4279 Other Bldgs- Agricultural	$48,770
		1177 Land non-integral	$242,240
			$1,073,500
Floren	R8164275	4147 Grazing Land	$5,420
Parcel 1A		4277 Farm/Ranch Res Imps	$23,020
		4127 Dry Farm Land	$170
		1277 Res Imps non-integral	$3,874,780
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$358,760
			$4,264,320
Becherer	R8164276	4147 Grazing Land	$5,460
Parcel 2A		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$4,211,730
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$358,760
			$4,601,140
Link	R8164279	4147 Grazing Land	$5,460
Parcel 5A		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$6,368,380
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$358,760
			$6,757,790
Karsotis	R8164280	4147 Grazing Land	$5,460
Parcel 6		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$2,601,490
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$473,240
			$3,105,380
Peterson	R8164281	4147 Grazing Land	$5,460
Parcel 7A		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$2,703,200
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$402,760
			$3,136,610
SMR 8	R8165857	4147 Grazing Land	$5,460
Parcel 8B		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$4,910,540
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$358,760

Exhibit E

Assessor's Valuations based Remand Order - dated June 29, 2015

Owner	Schedule	Abstract Code - Description	Actual Value
			$5,299,950
Henry	R8164283	4147 Grazing Land	$6,230
Parcel 9		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$5,724,780
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$380,760
			$6,136,960
Allen Trust	R8164284	4147 Grazing Land	$6,240
Parcel 10		4277 Farm/Ranch Res Imps	$23,020
Note: Remand Notice of Value (08/21/15) mailed to both former & new owners (Rushing Water, LLC).		1277 Res Imps non-integral	$1,971,660
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$314,760
			$2,317,850
Stark	R8164285	4147 Grazing Land	$5,460
Parcel 11A		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$2,483,170
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$420,360
			$2,934,180
Srednicki	R8165318	4147 Grazing Land	$5,460
Parcel 12A		4277 Farm/Ranch Res Imps	$23,020
		1277 Res Imps non-integral	$7,092,290
		4279 Other Bldgs- Agricultural	$2,170
		1177 Land non-integral	$437,960
			$7,560,900
Behr/Muir	R8165355	4147 Grazing Land	$3,110
Canyon Parcel A		4277 Farm/Ranch Res Imps	$11,510
		1277 Res Imps non-integral	$5,353,070
		4279 Other Bldgs- Agricultural	$1,080
		1177 Land non-integral	$201,380
			$5,570,150
Behr/Muir	R8165860	4147 Grazing Land	$3,110
Canyon Parcel B		4277 Farm/Ranch Res Imps	$11,510
		1277 Res Imps non-integral	$892,160
		4279 Other Bldgs- Agricultural	$1,080
		1177 Land non-integral	$201,380
			$1,109,240

Exhibit F

Petitioners' & Respondent's Stipulated Full Parcel Values

Owner	Properties subject to Stipulation							
	Owner Name (abbr)	2012 BAA Docket #	Assessor's Schedule	**Owner Parcel**	**Full Parcel Value (2012)**	Less: 1/14th Market Value of C.A. Assets	Value subject to agreed 10% Methodology
1	Behr Rev Trust	61154	R3205567	**Ranch Central**	**$1,210,000**	(666,800)	$543,200
2	Floren	61158	R8164275	**1**	**$2,200,000**	(666,800)	$1,533,200
3	Becherer	61147	R8164276	**2**	**$2,200,000**	(666,800)	$1,533,200
4	Link	61148	R8164279	**5**	**$2,200,000**	(666,800)	$1,533,200
5	Karsotis	61157	R8164280	**6**	**$1,870,000**	(666,800)	$1,203,200
6	Peterson	61149	R8164281	**7**	**$2,420,000**	(666,800)	$1,753,200
7	SMR 8	61156	R8165857	**8**	**$2,200,000**	(666,800)	$1,533,200
8	Henry	61150	R8164283	**9**	**$2,310,000**	(666,800)	$1,643,200
9	Allen Trust	61155	R8164284	**10**	**$1,980,000**	(666,800)	$1,313,200
10	Stark	61151	R8164285	**11**	**$2,508,000**	(666,800)	$1,841,200
11	Srednicki	61152	R8165318	**12**	**$2,596,000**	(666,800)	$1,929,200
12	Behr/Muir	61146	R8165355	**Canyon Parcel A**	**$1,210,000**	(333,400)	$876,600
12	Behr/Muir	61153	R8165860	**Canyon Parcel B**	**$1,210,000**	(333,400)	$876,600

Total: 13 schedules

Exhibit G

Stipulated Building Envelope Values

Using the "Ten Percent Methodology"

Properties subject to Stipulation			Owner Parcel	Building Envelope Value (10%)
Owner Name (abbr)	2012 BAA Docket #	Assessor's Schedule		
Behr Rev Trust	61154	R3205567	Ranch Central	$54,320
Floren	61158	R8164275	1	$153,320
Becherer	61147	R8164276	2	$153,320
Link	61148	R8164279	5	$153,320
Karsotis	61157	R8164280	6	$120,320
Peterson	61149	R8164281	7	$175,320
SMR 8	61156	R8165857	8	$153,320
Henry	61150	R8164283	9	$164,320
Allen Trust	61155	R8164284	10	$131,320
Stark	61151	R8164285	11	$184,120
Srednicki	61152	R8165318	12	$192,920
Behr/Muir	61146	R8165355	Canyon Parcel A	$87,660
Behr/Muir	61153	R8165860	Canyon Parcel B	$87,660

Exhibit H

Petitioners' & Respondent's Stipulated Values

Total Actual Value for 2012; all Jet Black Allocations, Owner Lot's Land, House, & Building Envelope Values

Owner	Abstract Code - Description	Actual Value
R3205567	4137 Meadow Hay Land - 34.02 acres	$16,190
Behr Rev Trust	4147 Grazing Land (Jet Black allocation)	$4,710
Ranch Central	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$48,770
	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$738,570
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$54,320
		$937,700
R8164275	4127 Dry Farm AG Land - 1.9 acres	$170
Floren	4147 Grazing - 32.1 acres (inc $4,710 J/B alloc)	$5,420
Parcel 1A	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$3,874,780
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$153,320
		$4,111,000
R8164276	4147 Grazing - 34.1 acres (inc $4,710 J/B alloc)	$5,460
Becherer	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 2A	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$4,211,730
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$153,320
		$4,447,820
R8164279	4147 Grazing - 34.14 acres (inc $4,710 J/B alloc)	$5,460
Link	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 5A	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$6,368,380
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$153,320
		$6,604,470
R8164280	4147 Grazing - 34.2 acres (inc $4,710 J/B alloc)	$5,460
Karsotis	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 6	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$2,601,490
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$120,320
		$2,804,580
R8164281	4147 Grazing - 34.18 acres (inc $4,710 J/B alloc)	$5,460
Peterson	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 7A	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$2,703,200
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$175,320
		$2,961,290
R8165857	4147 Grazing - 34.03 acres (inc $4,710 J/B alloc)	$5,460
SMR 8	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 8B	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$4,910,540
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$153,320
		$5,146,630

Owner	Abstract Code - Description	Actual Value
R8164283	4147 Grazing - 69.19 acres (inc $4,710 J/B alloc)	$6,230
Henry	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
0	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$5,724,780
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$164,320
		$5,972,640
R8164284	4147 Grazing - 69.32 acres (inc $4,710 J/B alloc)	$6,240
Allen Trust	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 10	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$1,971,660
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$131,320
		$2,186,530
R8164285	4147 Grazing - 34.14 acres (inc $4,710 J/B alloc)	$5,460
Stark	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 11A	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$2,483,170
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$184,120
		$2,750,060
R8165318	4147 Grazing - 34.01 acres (inc $4,710 J/B alloc)	$5,460
Srednicki	4279 AG Outbldgs (inc $2,170 Jet Black alloc)	$2,170
Parcel 12A	4277 Farm/Ranch Res Imps - Jet Black alloc	$23,020
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$7,092,290
	1177 Jet Black non-integral Land Alloc	$52,120
	1177 Owner's Lot (non-integral Bldg Env.)	$192,920
		$7,367,980
R8165355	4147 Grazing - 34.11 acres (inc $2,360 J/B alloc)	$3,110
Behr/Muir	4279 AG Outbldgs (inc $1,080 Jet Black alloc)	$1,080
Canyon Parcel A	4277 Farm/Ranch Res Imps - Jet Black alloc	$11,510
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$5,353,070
	1177 Jet Black non-integral Land Alloc	$26,060
	1177 Owner's Lot (non-integral Bldg Env.)	$87,660
		$5,482,490
R8165860	4147 Grazing - 34.26 acres (inc $2,360 J/B alloc)	$3,110
Behr/Muir	4279 AG Outbldgs (inc $1,080 Jet Black alloc)	$1,080
Canyon Parcel B	4277 Farm/Ranch Res Imps - Jet Black alloc	$11,510
	1277 Res Imps, non-int (inc $323,130 J/B alloc)	$892,160
	1177 Jet Black non-integral Land Alloc	$26,060
	1177 Owner's Lot (non-integral Bldg Env.)	$87,660
		$1,021,580