

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT SCHOENESHOFER,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65495</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 10, 2015, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared *pro se*. Respondent was represented by Cassie Stokes, Esq. Petitioner is protesting the 2014 classification and actual value of the subject property.

Petitioner is requesting agricultural classification and a value of \$8,416 for the property. Respondent assigned vacant land classification and the following actual values for each of the parcels.

<u>Schedule Number</u>	<u>Acreage</u>	<u>Actual Value</u>
148681	13.23 acres	\$ 44,760
148682	15.88 acres	\$ 53,730
148683	14.87 acres	\$ 50,310
193872	35.11 acres	<u>\$118,790</u>
		\$267,590

The subject property, located south of Shadow Mountain Road in unincorporated Jefferson County, is comprised of four vacant parcels, contiguous, vacant, and agriculturally zoned. All are level to sloping with a creek along their northern borders.

Mr. Schoenshoeffer testified that the subject property has carried agricultural classification for 100 years and was hayed for 40 years during his ownership. Some years ago, the Department of Transportation built a fence along Shadow Mountain Road, but in 2003 much of it was damaged or

destroyed by county snowplows during a four-foot snowstorm, and he has not utilized the land since then. Although offered a ten-year lease (November 1, 2014 to November 1, 2024) by the State of Colorado for grazing, the introduction of cattle is contingent upon fence repair estimated at \$14,000.

Mr. Schoenshoeffer and his son introduced bee hives two years ago in the eastern section of the 35.11 acre parcel and have a verbal contract with a restaurant in Conifer for honey. While eight hives are projected, no sales have occurred to date.

Mr. Schoenshoeffer is requesting agricultural classification based on anticipated fence repair, the ten-year grazing lease with the State of Colorado, and the new honey bee endeavor.

Respondent's witness, Tammy J. Crowley, Certified Residential Appraiser for the Assessor's Office, defended the property's vacant land classification. Regardless of past use and future intent, state statute defines classification. The subject property was not used as a farm or ranch for tax year 2014 or the two previous years and cannot, therefore, be classified as agricultural. Vacant land classification was assigned for tax year 2014 when no evidence of agricultural use could be determined.

Ms. Crowley presented a market approach for the three smaller parcels (Schedule Numbers 148681, 148682, and 148683) based on their average size of 14.66 acres. Based on the adjusted sale price range of \$9,600 to \$15,146 per acre and giving most weight to Sale One (\$12,068 per acre), she concluded to an indicated value of \$13,000 per acre or \$171,990 for Schedule Number 148681, \$206,440 for Schedule Number 148682, and \$193,310 for Schedule Number 148683.

Ms. Crowley presented a market approach for the 35.11 acre parcel (Schedule Number 193872). She presented three vacant land sales ranging in size from 34.086 to 36.157 acres. After adjustments for time, access, and topography, adjusted prices ranged from \$287,500 to \$324,000. She concluded to an indicated value of \$310,000.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly classified and valued for tax year 2014.

Section 39-1-102(1.6)(a)(I)(A), C.R.S. defines "agricultural land" as *"a parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices." (Emphasis added).*

(3.5) "Farm" means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit."

(13.5) "Ranch" means a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit."

While acknowledging the pending grazing lease and the start-up honey bee business, the Board does not have the power to override statute. The subject property was not used as a farm or ranch during tax year 2014 or in the preceding two years (2012 and 2013) as is required by Section 39-1-102, C.R.S.

Petitioner did not produce enough evidence to convince the Board that the land has been used as a “farm”, during the 2012-14 tax years (*e.g.*, there was no evidence that land has been used to produce agricultural products for primary purpose of obtaining monetary profit.). Similarly, the subject does not fit the statutory definition of a “ranch,” as, according to Petitioner’s own testimony, the property has not been grazed during 2012-2014 tax years.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-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 31st day of March, 2015.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra Mercier

MaryKay Kelley

MaryKay Kelley

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

Milla Lishchuk

Milla Lishchuk

