

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**  
1313 Sherman Street, Room 315  
Denver, Colorado 80203

Docket No.: 70530

Petitioner:

**MARION J. WELLS, INHERITOR AND PR,  
ESTATE OF WAYNE E. WELLS,**

v.

Respondent:

**GARFIELD COUNTY BOARD OF EQUALIZATION.**

**AMENDED ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on November 22, 2017, Debra A. Baumbach and MaryKay Kelley presiding. Marion J. Wells appeared as Petitioner's Personal Representative. Respondent was represented by Katharine A. Johnson, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**6691 County Road 309, Parachute, Colorado  
Garfield County Schedule No. R270462 (186.4 acres with two improvements)**

**S. 32, T.6, R.94 NESW, Parachute, Colorado  
Garfield County Schedule No. R024275 (40 vacant acres)**

**S. 5, T. 7, R. 94, Parachute, Colorado  
Garfield County Schedule No. R024276 (5.3 vacant acres)**

The subject consists of three parcels on 231.7 acres. Improvements include a residence and Quonset Hut. Two county roads and Cache Creek cross the property. There is a power line easement, a six-acre gas well pad, and a small burn area. Terrain is level to sloping to steep. All three parcels carry *agricultural* classification. Schedule No. R270462 has two structures; a 1,752-square-foot residence built in 1979 with basement and garage and a Quonset Hut, a 1,200-square-foot, pre-engineered, metal ribbed siding, built in 1983.

Respondent assigned a total actual value of \$224,010:

Schedule No. R270462 - \$223,010 (residence \$207,320, Quonset Hut \$2,880, land \$12,810);

Schedule No. R024275 - \$1,080 (land only); and

Schedule No. R024276 - \$110 (land only).

Respondent's assigned actual value was supported by an appraised value of \$258,440:

Schedule No. R270462 - \$257,250 (residence \$240,000, Quonset Hut \$4,440, land \$12,810);

Schedule No. R024275 - \$1,080 (land only); and

Schedule R024276 - \$110 (land only).

Petitioner is requesting a total value of \$204,820:

Schedule No. R270462 - \$204,400 (residence \$200,150, Quonset Hut \$1,730, land \$2,520);

Schedule No. R024275 - \$380 (land only); and

Schedule No. R024276 - \$40 (land only).

Pursuant to Section 39-1-103(5)(a), C.R.S., "the actual value of agricultural lands, exclusive of building improvements, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time capitalized at a rate of thirteen percent". The Assessor's Reference Library (ARL) Vol. 3, page 5.33, dictates the following steps in valuation: establish soil classification; establish production areas; establish the average commodity yields or carrying capacity in each soil class within each production area.

#### Respondent's Case

Respondent's witness, Amanda Knox, Ad Valorem Appraiser for the Garfield County Assessor's Office, testified to the ARL directives developed by the Division of Property Taxation. Per ARL, Vol. 3, page 5.33, these directives were established to promote equalization in assessment throughout the state and involve modern soil surveys per the Natural Resource Conservation Service (NRCS) and the United States Department of Agriculture (USDA). As this classification system allows for a "reasonably accurate comparison" of parcels throughout the state, Ms. Knox argued that it must be followed.

Using topography maps and the GIS (Geographic Information Systems) Ms. Knox defined five mapping units within the subject's 231.7 acres. Described by slope and soil type, they are units 34, 44, 58, 59 and 69. She assigned each mapping unit a soil class defined by the Natural Resource Conservation Service (NRCS): mapping unit 58 defined as Soil Class 6e (non-irrigated, recovering vegetation, "good" grazing capacity at 40 acres per animal unit); mapping units 34 and 59 defined as Soil Class 7e (non-irrigated, steep with tree cover, less vegetation due to rough terrain that is eroded or susceptible to erosion, "low" grazing capacity); and mapping units 44 and 69 defined as Soil Class 4e (irrigated or non-irrigated, severe plant limitation, fair productivity, consideration given to the drip irrigated orchards, the southern field and the open meadow).

Ms. Knox testified that the above soil classes determined the following crop production or carrying capacity for grazing: Soil Class 4e (2.5 tons of productivity); Soil Class 6e (carrying capacity of 40 acres per AU/animal unit); and Soil Class 7e (carrying capacity of 60 acres per AU).

Ms. Knox referenced the ARL's methodology of valuation for grazing: 12 months divided by acres per AU equals AUM per acre; AUM per acre times DPT-provided rental rate equals gross income; gross income minus expense equals net income; net income divided by statutory capitalization rate equals value per acre; value per acre times acreage equals value.

Ms. Knox referenced the ARL-prescribed methodology for crop production: average yield times DPT-provided hay price per ton equals gross income; gross income times landlord crop share equals gross income; gross income minus expenses equals net income; net income divided by statutory capitalization rate equals value per acre; value per acre times GIS-map acreage equals value.

Based on this methodology, Ms. Knox estimated value as follows:

Schedule No. R270462 (\$12,810)

40 acres per AU for 70.9 acres, 60 acres for 103.2 acres, and Class 4e with 2.5 tons of productivity for 12.3 acres.

Schedule No. R024275 (\$1,080)

40 grazing acres per AU for 40 acres.

Schedule No. R024276 (\$110)

40 acres per AU for 3 acres and 60 acres per AU for 2.3 acres.

In valuing the residential structure on Schedule No. R270462, Ms. Knox applied the Sales Comparison Approach. She presented five comparable sales located in the subject's economic area and with sale prices ranging from \$262,000 to \$375,000. She deducted land values based on market data and adjusted for a variety of characteristics. Adjusted sale prices ranged from \$200,620 to \$251,980. Ms. Knox gave greatest weight to Sales One and Two for their proximity to the subject and similar distances to services and amenities. She concluded to a value of \$240,000 for the residence.

Ms. Knox valued the Quonset Hut on Schedule No. R270462 by use of the Cost Approach. Using Marshall & Swift Valuation Service, she determined "average" construction quality because of its overhead doors, concrete floor, and electricity (acknowledging it as inadequate). She depreciated it at 80% and concluded to a value of \$4,440.

#### Petitioner's Case

Ms. Wells, Personal Representative of her father's estate, stated that none of her property was used for crop production; she grew grapes on one acre and raspberries on 0.1 acre, neither for profit. She argued that only grazing should be considered for purposes of valuation.

Ms. Wells agreed with the NRCS-defined soil types but disagreed with Respondent's assignment of them on the subject parcels, arguing that their descriptions are broad and not

appropriate for specific areas. She offered a soils report by Stephen Jaouen, District Conservationist, USDA and NRCS, in which he disagreed with the county's assignment of soil types and said that the County failed to properly use NRCS data; his report was not admitted because he could not be contacted for testimony or cross examination.

Referencing Schedule No. R270462 (186.4-acres parcel), Ms. Wells described the five mapping units (34, 58, 59, 69 and 44). Much of Unit 34 was heavily treed with Ildefonso stony loam (no grazing value or 80 acres grazing per AU). She described Units 58 and 59's range productivity at less than 533 pounds per acre (compared with Respondent's quote of 800 pounds per acre), thus poor grazing; Unit 58 included 20 acres of fire burn, power lines, gas lines, and fewer than 533 pounds per acre and, therefore poor or no grazing (70-80 acres per AU). Presenting photographs of poor grass production, she described Unit 44 as non-irrigated, heavily treed, and unable to produce a crop. Ms. Wells described irrigating and growing grapes on one acre and raspberries on 0.1 acre for wildlife (bears), not for profit. She defined all of her acreage as non-irrigated, some of it steep and rocky, much of it heavily treed with Ilfonso stony loam, and none of it good.

Referencing Schedule No. R024275 (40-acre parcel), Ms. Wells described Units 34 and 58 (see above) and rated them at 70 to 80 acres per AU.

Referencing Schedule No. R024276 (5.3-acre parcel), Ms. Wells described three mapping units (34, 59 and 69). Mapping units 34 and 59 were discussed above. Ms. Wells described mapping unit 69 (gas line, some steeper slopes) as producing 1,350 pounds per acre in comparison with Respondent's designated 1,500 pounds. She also considered this unit to offer poor grazing or wasteland (70-80 acres AU).

Ms. Wells, who leased her land for grazing horses four-plus months a year, argued that her soil and terrain would not accommodate the amount of grazing determined by Respondent. She concluded to 80 acres per AU for Schedule No. R270462, 70 and 80 acres per AU for Schedule No. R024275, and 70 and 80 acres per AU for Schedule No. R024276.

In valuing the residential improvement, Ms. Wells presented four comparable sales, subtracted the assigned value for land from the sale price, and compared data from County records and Realtors for adjustments. She concluded to an adjusted range of \$160,150 to \$252,130 and concluded to a value for the residential improvement of \$200,150.

With regard to Respondent's appraisal for the subject residence, Ms. Wells stated that Respondent's Sale One was a private sale and that it closed post-base period. Also, it was gutted, expanded, and remodeled in 2012, none of which was reported.

With regard to the Quonset Hut, Ms. Wells disagreed with Respondent's application of average quality, arguing that it had no water and inadequate electrical power and that Respondent should have made negative adjustments for same. Ms. Well concluded to a value of \$1,730 for the Quonset Hut.

## Board's Findings

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

The Board agrees with the ARL's methodology in valuing agricultural land. However, it notes that the ARL, while binding on assessors, allows for interpretation. ARL, page 5.47 of Vol. 3 equates statewide standards as "*guidelines*"; "*recommended*" subclasses are listed. Page 5.33 states that "soil maps *assist* in equitable assessment" and that "the uniform *classification* system allows for a *reasonably* accurate comparison of two parcels in the same county as well as across county lines and/or state lines".

The Board notes that Ms. Wells told Ms. Knox that there had been no changes since her 2015 visit and refused a site inspection. The Board finds that a thorough physical inspection of the entire property and interpretation of soils and terrain to be critical. It highly recommends that the parties inspect the property together.

The Board finds Petitioner's knowledge of the property's soil and terrain to be persuasive. Her analysis of grazing acres per AU is more convincing than what is determined by Respondent on page 30 of Exhibit A, but her discussion of crop production was less detailed than Respondent's analysis on page 30 of Exhibit A. Petitioner did not convincingly dispute Respondent's assignment of a 4e Soil Class and a 2.5 average yield (Schedule No. R0270462). Petitioner did not present evidence to refute Respondent's valuation of soil production.

The Board is not convinced by testimony and evidence of Respondent's witness that any of the subject parcels meets the standard of good grazing or 40 acres per AU. Neither is it convinced by Petitioner that the soil equates to 80 acres per AU, although it finds it possible that some wasteland (80 acres per AU) exists. Based on evidence presented at the hearing, the Board finds that 60 acres per AU is supportable. Without a property-wide inspection by Respondent, the Board is unable to determine grazing capacity at 70 acres per AU.

The Board finds that Respondent's Sales Comparison Approach for the subject's residential improvement is more convincing than Petitioner's. Respondent's sales were selected from the subject's economic area with similarities and dissimilarities adjusted for their comparability to the subject. Petitioner's sales are insufficiently described; a map was not provided for comparison of locations and proximity to the subject, photos were not offered, and the source of adjustments (County records and Realtors) is unclear.

The Board finds Respondent's valuation of the Quonset Hut to be appropriately cost-based and persuasive. It agrees with Respondent's assignment of "average" construction (arched frame, metal siding, overhead door, slab floor, and electricity) in comparison to "low" cost construction (lightweight frame, open ends, and dirt floor).

Schedule No. R270462

Class 4e (productivity) – no change from Respondent's valuation. \$ 9,430

Class 6e	12 months/60 acres per AU = 0.2 AUM per acre \$16.84 rental rate per DPT X 0.2 = \$3.37 gross income \$3.37 minus \$1.53 landlord expense = \$1.84 net income \$1.84/.13 statutory capitalization rate = \$14.15 value/acre \$14.15 value/acre times 70.9 acres = \$1,003 actual value RD	\$ 1,003
----------	---	----------

Class 7e (60 acres per AU for 103.2 acres) – no change. \$ 1,460  
\$ 11,893

Schedule No. R024275

Class 6e	12 months/60 acres per AU = 0.2 AUM per acre \$16.84 rental rate per DPT X 0.2 = \$3.37 gross income \$3.37 minus \$1.53 landlord expense = \$1.84 net income \$1.84/.13 statutory capitalization rate = \$14.15 value/acre \$14.15 value/acre X 40 acres = \$566 actual value RD	<u>\$ 566</u> <u>\$ 566</u>
----------	---	--------------------------------

Schedule No. R024276

Class 6e	12 months/60 acres per AU = 0.2 AUM per acre \$16.84 rental rate per DPT X 0.2 = \$3.37 gross income \$3.37 minus \$1.53 landlord expense = \$1.84 net income \$1.84/.13 statutory capitalization rate = \$14.15 value/acre \$14.15 value/acre X 3 acres = \$42.45 or \$42 RD	\$ 42
Class 7e	(60 acres per AU for 2.3 acres) – no change	\$ 30 \$ 72

Land (recalculated)	\$ 12,531
Residence (assigned value)	\$207,320
Quonset Hut (assigned value)	\$ 2,880
<b>TOTAL</b>	<b>\$ 222,731</b>

The Board agrees with Respondent's valuations for the residence and Quonset Hut. However, the Board has re-calculated all three schedule numbers to reflect 60 acres per AU.

### **ORDER:**

Respondent is ordered to reduce the 2017 actual value of the subject property to **\$222,731**. The Garfield County Assessor is directed to change their 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 13<sup>th</sup> day of February, 2018.

BOARD OF ASSESSMENT APPEALS

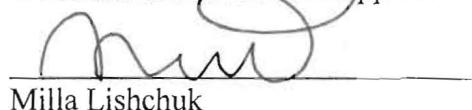


Debra A. Baumbach

*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

