

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 71346**

Petitioner:

**ROGER TROUT,**

v.

Respondent:

**ELBERT COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on April 5, 2018, Debra A. Baumbach, Amy J. Williams, and Sondra W. Mercier presiding. Petitioner appeared pro se. Respondent was represented by Bart Greer, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**18652 Wedemeyer Road, Kiowa, Colorado  
Elbert County Schedule No. R113876**

The subject is a 1.850-square foot ranch style home situated on 38.45 acres. The property receives the agricultural use classification as grazing land.

The parties agreed to incorporate previous testimony earlier presented for Dockets 71444 and 71445.

Petitioner is requesting an actual value of \$114,838.80 for the subject property for tax year 2017. Respondent assigned a value of \$235,011 for the subject property for tax year 2017.

Mr. Trout presented three residential sales to support a value of \$114,700 for the residence; along with a grazing land worksheet to support a value of \$138.80 for the agricultural land.

Respondent's witness, Michael W. Akana, Ad Valorem Appraiser with the Elbert County Assessor's Office, presented an appraisal report and adjustment grid to support a value of \$233,970

for the residence. A value of \$1,041 was assigned to the agricultural land based on the income approach.

Respondent's witness Mr. Kyle Hooper provided testimony regarding the valuation process to determine agricultural values. The witness indicated the State adopted a uniform formula to be used by all counties under Section 39-1-109, C.R.S. Mr. Hooper stated all counties are audited to ensure the formula is applied correctly. The witness also clarified Petitioner's contention the County was incorrectly stating the value of agricultural land is based on earnings **and** productive capacity. The correct terminology must be earnings **or** productive capacity as stated in the ARL Chapter 5 and appropriately applied by the Elbert County Assessor.

Colorado Constitution Article X Section 3(1)(a) and Section 39-1-103(5)(a), C.R.S. specify that the actual value of residential real property shall be determined **solely** by consideration of the market approach to appraisal. The Board found Respondent's testimony and evidence to be the most credible and market based in the valuation of the subject residence. Respondent's witness correctly completed a site-specific market analysis of the subject property, comparing three sales, and adjusting for differences in property characteristics. The land values subtracted from the sales prices in the grid were estimated using the market approach, based on three vacant land sales. The appraisal report indicated a market value for the residential improvements of \$233,970.

Colorado Constitution Article X Section 3(1)(a) and Section 39-1-103(5)(a), C.R.S. require that the actual value of agricultural land is determined solely by consideration of the earning or productive capacity of agricultural land capitalized at a rate prescribed by law. Respondent calculated the agricultural land value using the prescribed formula to conclude to a land value of \$1,041.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017. Petitioner relied on two comparable sales but made no adjustments for changing market conditions or differences in property characteristics such as size, quality and condition when compared to the subject. The third property presented by Petitioner represented the purchase of a manufactured home construction package, not an actual market sale. Petitioner's calculation of agricultural land value was based on a verbal lease agreement associated with the subject rather than the factors prescribed by the Colorado Division of Property Taxation.

### **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 1st day of May, 2018.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Amy J. Williams*

Amy J. Williams

*Sondra W. Mercier*

Sondra Mercier

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

*Milla Lishchuk*

Milla Lishchuk

