

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TROUT CATTLE LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ELBERT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 71444</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 4, 2018, Debra A. Baumbach and Gregg Near presiding. Petitioner was represented by Mr. Robert Trout. Respondent was represented by Bart Greer, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**Section: 14; Township: 8; Range: 62
Elbert County Schedule Nos. 107217 and 119973**

The subject property is two parcels of agricultural land containing 200 acres total (40 and 160 acres). The property receives the favorable agricultural classification as grazing land.

The parties agreed to incorporate testimony presented in Docket 71445.

Petitioner is requesting an actual value of \$144.40 (Rec. No. 107217) and \$577.60 (Rec. No. 119973). Respondent assigned a value of \$1,083 (Rec. No. 107217) and \$4,333 (Rec. No. 119973) for the subject property for tax year 2017.

Mr. Trout presented Exhibit 3 and testimony regarding the correct valuation method to support values of \$144.40 and \$577.60 for the agricultural land.

Respondent's witness Michael W. Akana, Ad Valorem Appraiser with the Elbert County Assessor's Office, presented appraisal reports and income approaches to support values of \$1,083 and \$4,333 for the subject parcels.

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 39-2-109, 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 (Petitioner's Ex 8). 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 specifies that the actual value of agricultural land shall be determined solely by consideration of the earning or productive capacity of such lands capitalized at a rate prescribed by law. Section 39-1-103 of the Colorado Revised Statutes specifies that the actual value of Agricultural lands, exclusive of building improvements thereon, 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 Board found Respondent's testimony and evidence to be the most credible and market-based.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017. 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 30th day of April, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Gregg Near

Gregg Near

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

Milla Lishchuk

Milla Lishchuk

