

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THE PINEY VALLEY RANCHES TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Kimberly E. Lord, Esq. Johnson & Repucci LLP</p> <p>Address: 1401 Walnut Street, Suite 500 Boulder, Colorado 80302</p> <p>Phone Number: (303) 442-1900</p> <p>E-mail:</p> <p>Attorney Registration No.: 18802</p>	<p>Docket Number: 38418</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 4, 2002, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Kimberly E. Lord, Esq. Respondent was represented by Diane H. Mauriello, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**The Piney Valley Ranches Trust
37 Eagle County Schedule Numbers as set forth in Exhibit A**

Petitioner is protesting the 2001 classification and actual value of the subject properties, 37 parcels of land located north of the Town of Wolcott in Eagle County, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject properties have continuously been used for grazing purposes, most recently by sheep. The Respondent improperly reclassified the subject properties to vacant land from agriculture.

Respondent:

Respondent contends that any recent grazing activities were conducted by trespass as no lease or monetary gain was entered into or exchanged.

MOTION:

Respondent moved for the petition to be dismissed due to a lack of standing by Petitioner to file the appeal, as The Piney Valley Ranches Trust was not the owner of the subject properties until after the appeal period had ended. Respondent believes the correct process for Petitioner to file an appeal would be through the abatement process.

Petitioner believes it has standing as it had an equity interest in the subject properties and was responsible for the 2001 taxes. Petitioner believes this gives it standing to file an appeal during the usual appeal process. Additionally, Petitioner believes that the issue of standing should have been raised at previous hearings, or at a minimum, at least 10 days prior to this hearing.

FINDINGS OF FACT:

1. The Board agreed to conduct a hearing on facts regarding the subject properties' classification issue, as all parties were present at the hearing, the motion was not presented prior to the date of the hearing, and it would prevent the need for a future hearing if the Board determined that Petitioner did have standing. The Board also requested position statements on the standing issue. The Board received the position statements from each party on April 12, 2002.

2. Petitioner entered into a contract to purchase the subject properties and the contract was subsequently closed.

3. The owner of the subject properties was Horse Mountain Ranches, LLC until June 18, 2001, at which time The Piney Valley Ranches Trust became the owner of record.

4. Petitioner filed a notice of protest with the Eagle County Assessor on June 1, 2001, as a contract purchaser and equitable owner of the subject properties. Petitioner did not

file the appeal as an authorized representative for the owner at the time, Horse Mountain Ranches, LLC. The protest was denied and notices of determination dated June 26, 2001 were mailed to the Petitioner by the assessor's office.

5. Petitioner filed a notice of appeal with the Eagle County Board of Equalization on July 6, 2001. The appeal was denied and a notice of denial dated July 31, 2001 was mailed to the Petitioner.

6. Petitioner filed an appeal to the Board of Assessment Appeals (BAA) on August 28, 2001.

7. Petitioner is requesting that the Board accept jurisdiction and return the subject properties to an agricultural classification.

CONCLUSIONS:

1. Counsel for Respondent moved to dismiss the appeal on the grounds that Petitioner lacked standing to file the appeal. The Board grants Respondent's motion.

2. Petitioner was not the owner of record at any time during the taxpayer appeal period ending June 1, 2001. The Board found no authority for an "equity owner" to file an appeal under C.R.S. 39-5-122. The Board believes that the only person that can file an appeal under this statute is the owner of record, or their authorized agent. It was not disputed that Petitioner filed the appeal on its own behalf and not that of the owner of record, Horse Mountain, LLC.

3. The Board was not convinced that a purchaser that has placed a contract on a property has a right to appeal ad valorem valuations. Such an interpretation would likely result in protests being filed by persons that may never become owners of record if the contract is not closed.

4. Petitioner has the right to file for an abatement under C.R.S. 39-10-114, and the Board suggests Petitioner pursue its appeal under this statute. The Board would also entertain motions to incorporate testimony and evidence presented in this hearing regarding the classification issue into a future abatement hearing, as well as providing teleconferencing to lessen the financial burden of both parties.

5. Regarding Petitioner's complaint concerning the raising of the standing issue at such a late date, the Board agrees that Petitioner should have been notified earlier in the process that it did not have standing to file an appeal under C.R.S 39-5-122. However, the Board recognizes that standing is jurisdictional and not subject to waiver, regardless of when the issue is raised.

ORDER:

The petition is dismissed.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 30th day of May, 2002.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Karen E. Hart
Karen E. Hart

This decision was put on the record

MAY 29 2002

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

Penny S. Bunnell
Penny S. Bunnell



The Piney Valley Ranches Trust
2001 Valuations

<u>#</u>	<u>Schedule Number</u>	<u>Parcel Number</u>	<u>Acres</u>	<u>2001 Valuation</u>	<u>Use</u>
1	R006628	1855-084-00-134	40	149,080	Residential
2	R006748	1855-081-00-136	40	149,080	Residential
3	R006749	1855-081-00-137	40	149,080	Residential
4	R017857	1855-071-00-010	40	149,080	Residential
5	R017861	1855-071-00-009	40	149,080	Residential
6	R017872	1855-082-00-011	40	149,080	Residential
7	R017876	1855-171-00-026	40	149,080	Residential
8	R017878	1855-171-00-028	40	149,080	Residential
9	R017879	1855-171-00-029	40	149,080	Residential
10	R017882	1855-181-00-025	40	149,080	Residential
11	R017907	1855-074-00-034	40	149,080	Residential
12	R018043	1855-172-00-039	40	149,080	Residential
13	R018044	1855-181-00-041	40	149,080	Residential
14	R018047	1855-172-00-040	40	149,080	Residential
15	R018052	1855-181-00-046	40	149,080	Residential
16	R018217	1855-173-00-066	40	149,080	Residential
17	R018218	1855-172-00-065	40	149,080	Residential
18	R018223	1855-184-00-051	40	149,080	Residential
19	R018226	1855-203-00-052	41	149,080	Residential
20	R018238	1855-083-00-053	40	149,080	Residential
21	R018241	1855-174-00-055	40	149,080	Residential
22	R018242	1855-201-00-056	40	149,080	Residential
23	R018246	1855-202-00-059	40	149,080	Residential
24	R018357	1855-184-00-078	40	149,080	Residential
25	R018359	1855-214-00-080	40	149,080	Residential
26	R018361	1855-214-00-081	40	149,080	Residential
27	R018676	1855-202-00-095	40	149,080	Residential
28	R018841	1855-174-00-071	40	149,080	Residential
29	R018842	1855-173-00-072	40	149,080	Residential
30	R018843	1855-173-00-073	40	149,080	Residential
31	R018844	1855-202-00-074	40	149,080	Residential
32	R021139	1855-204-00-091	40	149,080	Residential
33	R026037	1855-092-00-114	40	149,080	Residential
34	R026093	1855-082-00-013	80	298,160	Residential
35	R032335	1855-301-00-128	40	21,870	Residential
36	R042414	1855-211-00-086	120	447,250	Residential
37	R042554	1855-092-00-115	160	596,330	Residential

EXHIBIT A