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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PHILIP L. AND RONA HAGEMAN,</p> <p>v.</p> <p>Respondent:</p> <p>PUEBLO COUNTY BOARD OF EQUALIZATION.</p> | |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Philip L. Hageman Address: 5697 North Highway 67 Sedalia, Colorado 80135 Phone Number: (303) 236-2494</p> | <p>Docket Number: 40967</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on August 27, 2003, Rebecca A. Hawkins and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Mr. Daniel C. Kogovsek, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 2, Section 2, Township 22, Range 68, Pueblo, Colorado
(Pueblo County Schedule No. 28-000-00-116)**

Petitioner is protesting the 2002 actual value of the subject property, a parcel of vacant land located in Pueblo County, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property has 40.2 acres and is zoned A-2 in Pueblo County, Colorado. The Pueblo County Assessor's Office unjustly changed the land classification from agricultural grazing to vacant land. The Petitioner provided the Pueblo County Assessor with evidence that the subject property is used as grazing land. He believes that the arbitrary approach by the Pueblo County Assessor has caused unjust taxation on his property.

Respondent:

Respondent contends that the Petitioner cannot provide proof that there was grazing on the subject property for the base period, and that Petitioner does not meet the criteria for agricultural use as defined in the statutes.

FINDINGS OF FACT:

1. Mr. Philip L. Hageman, Petitioner, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$837.00 for the subject property.
3. Petitioner did not present any comparable sales in his presentation. He did present copies of the Pueblo County Assessor's property card for similar properties located nearby.
4. The witness testified that he purchased the subject property in 2001, and that its historical use was ranch land. The water source for the land was from the natural ponds on the property. They purchased the property due to its historical use. Shortly after purchasing the property, Mr. Hageman received a questionnaire from the Pueblo County Assessor in order to correctly classify the subject.
5. The Petitioner testified that he believed the questionnaire was seeking information regarding the intended use of the parcel. Mr. Hageman testified that he listed his property as agricultural on the survey form; however, the Pueblo County Assessor's Office changed the land use of his property from agricultural to vacant land after the questionnaire was returned.
6. Petitioner testified that he had conversations with the Pueblo County Assessor regarding the drought that Colorado experienced in 2001 and 2002. Ranchers were recommended to not graze animals during 2001 and 2002. He told the Assessor that he was not able to graze animals in 2001 and 2002 due to the lack of moisture, but that animals would be grazing on his land as soon as the weather permitted. The Assessor indicated that he should notify the office when he did commence grazing so that the classification could be changed back to agriculture use. He notified

the Assessor's Office in December 2002 that he had completed fencing the property and that he had a grazing contract. The Assessor told Mr. Hageman that the property would be changed back to grazing or agricultural use after December 31, 2002.

8. During cross-examination, the Petitioner testified that there was no grazing on his land until December 2002 because of the drought. There were four or five horses, a colt and a brood mare on the subject property at that time.

9. Petitioner is requesting a 2002 actual value of \$837.00 for the subject property.

10. Respondent's witness, Ms. Patricia Ann Gurule, Certified General Appraiser with the Pueblo County Assessor's Office, presented an indicated value of \$24,000.00 for the subject property based on the market approach.

11. Respondent's witness presented five comparable sales ranging in sales price from \$30,000.00 to \$43,000.00. No adjustments were made to the sales.

12. Ms. Gurule testified that the purchase price was \$48,000.00 in August 2001 when Mr. Hageman purchased the subject property.

13. The Respondent's witness testified that the property is properly classified as vacant land. She reviewed the property in 1999 through 2000, and drove through the property since it was open range. There was no livestock or grazing activity observed on the land at that time. The fencing was not present on January 1, 2002. A salt lick was observed at the site on January 1, 2002. She did not observe any horses grazing there until December 2002. The Assessor's Office received a copy of an unsigned lease in December 2002. The general neighborhood response from the questionnaires returned to the Pueblo County Assessor's Office indicated there was no grazing within the area. The questionnaire from Mr. Martino, a neighbor, indicated there had not been any grazing in the neighborhood for some time. In May 2002, one landowner was interviewed and he indicated that the only grazing in the area was trespass grazing. The Colorado State Statute is based on the use of the land as of January 1, 2002. The agricultural classification for the subject property, as well as most of the properties in the neighborhood, was removed for tax year 2002. The few properties that were fenced retained agricultural classification.

14. Respondent's witness testified that the intent to use the land for grazing was not sufficient for agricultural classification. Earlier in 2002, during the drought, the vegetation on the Petitioner's land was tall, and based on her expertise, cattle and horses could have been grazed earlier than December 2002.

15. Under cross-examination, Respondent's witness testified that the nearby Blasi property was inspected, and that there was no fence or any cattle on the land. The Assessor's Office changed the Blasi property classification for 2003 to vacant land based on that inspection. The properties that are fenced are generally given agricultural classification. There was limited grazing in

2000 since most ranchers' grass was already grazed down, but the subject property had not been grazed; tall grasses were evident. There was no indication of grazing in the subdivision, as it is open land with no fencing or cattle guards.

16. Ms. Gurule testified that grazing on the subject land did not start until December 2002, so agricultural status will be returned to Mr. Hageman's land in 2003 if the grazing continues.

17. Upon questioning by the Board, the Respondent's witness testified that fencing and grazing is generally the difference between agricultural and vacant land classifications.

18. Respondent assigned an actual value of \$24,000.00 to the subject property for tax year 2002.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2002.

2. The Board must follow the Colorado State Statutes regarding the classification of property based on its use as of January 1, 2002. The Petitioner testified that grazing did not begin on his property until December 2002 and that the property was not fenced until that time.

3. The Board did not agree with the Petitioner that the questionnaire from the Assessor's Office was seeking information regarding the intended use of the land; the questionnaire was designed to ascertain the current use of the land as of January 1, 2002.

4. Although the Board sympathizes with the Petitioner that 2002 was a severe drought year in Colorado, the testimony indicated that grazing did not occur on the subject property in 1999 and 2000. In addition, the subject property could not be grazed because it was not fenced until December 2002.

5. The Board agrees with the Pueblo County Assessor's Office that the subject property should be changed back to agricultural classification in 2003 if its current use as grazing land is maintained.

ORDER:

The petition is denied.

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 4th day of September, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Judee Nuechter

Judee Nuechter

This decision was put on the record

SEP 05 2003

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

Penny S. Lowenthal
Penny S. Lowenthal

