

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>BAYARD BARTLEY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ELBERT COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Bayard Bartley Address: 2544 Monterey Place Fullerton, California 92833</p>	<p><b>Docket Number: 42018</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 27, 2004, Rebecca Hawkins and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Mark Scheffel, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Elbert County Schedule No. 112800**

Petitioner is protesting the 2003 actual value of the subject property, a parcel of vacant land consisting of 40 acres in Elbert County, Colorado.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the land use has not changed since he purchased the property and he does not understand why the value should increase, which ultimately results in increased property taxes.

### **Respondent:**

Respondent contends that the increase in value for the subject property was based on an increase in crop yields of two bushels over the previous assessment period.

## **FINDINGS OF FACT:**

1. Mr. Bayard Bartley, Petitioner, presented the appeal on his own behalf.
2. Petitioner presented no comparable sales.
3. Petitioner testified that the subject property has been described as dry agricultural farm land since he purchased it in 1979. In 1985, he received \$200.00 for wheat that was grown on the subject property, but he has not received any remuneration for agricultural use since then. He intends to build a dwelling on the subject property in the future.
4. Mr. Bartley testified that the subject property was overvalued by \$314.00 because Respondent erroneously believed that there was a sprinkler system on the land.
5. During cross-examination, Petitioner testified that he is protesting the \$314.00 increase in value from the previous year.
6. Petitioner is requesting a 2003 actual value of \$2,412.00 for the subject property.
7. Respondent's witness, Ms. Jane A. Penley, an Agricultural Appraiser with the Elbert County Assessor's Office, presented an indicated value of \$2,726.00 for the subject property based on the market approach.
8. The Respondent presented three comparable sales ranging in sales price from \$30,000.00 to \$55,000.00 and in size from 60 acres to 70.182 acres. After adjustments were made, the sales ranged from \$266.00 to \$529.00 per acre.
9. The Respondent's witness testified that she physically inspected the subject property, which is located 12 miles south of Simla in Elbert County. The parcel is 40 acres in size with a

county road located on the west side. It has good views of the Rocky Mountains. The soil is sandy loam with no trees and an old hay field.

10. Respondent's witness testified that the three approaches to value were considered, but that the cost approach is not applicable to vacant land. Using three comparable sales located within close proximity to the subject, the market approach indicated a median value of \$483.00 per acre, resulting in a total indicated value for the subject property of \$19,320.00. The classification of the subject property indicates no irrigation and it is considered to be dry farm land. By statute, agricultural land values must be determined based on the income approach. The Division of Property Taxation provides the Respondent with appropriate expenses, yield per acre and capitalization rate for the area, which indicates a value of \$68.15 per acre or \$2,726.00 for the subject property. The \$7.85 per acre increase in value over tax year 2002 was based on USDA determined yield increases.

11. During cross-examination, the Respondent's witness testified that if the classification of the subject property were changed from agricultural to vacant land, the value would be based on the market approach. The witness reiterated that the subject property is classified as dry farm land not as irrigated farm land; therefore, no adjustments for a sprinkler system were necessary.

12. During questions from the Board, Respondent's witness indicated that all three of the comparable sales shown in Respondent's Exhibit 1 were classified as vacant land.

13. Respondent assigned an actual value of \$2,726.00 to the subject property for tax year 2003.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. The Petitioner did not present any evidence in support of his requested value, whereas the Respondent provided a well-documented appraisal report that supports the assigned value.

3. The Board recognizes that the Respondent is required to value agricultural land based solely on the income approach following the guidelines for yield, expenses, and capitalization rates provided by the Division of Property Taxation. The increase in value for the subject property was properly attributed to the increase in yield production for dry farm land as determined by the USDA. The increase in value was not attributable to an erroneous belief that the subject property had a sprinkler system, as it was not valued as irrigated land.

4. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$2,726.00 for tax year 2003.

## **ORDER:**

**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 20<sup>th</sup> day of July, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca A. Hawkins

*Judee Nuechter*

Judee Nuechter

This decision was put on the record

**JUL 20 2004**

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

