

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>KEITH A. &amp; LESLIE A. FRANZ,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 45181</b></p>
<p><b>INTERIM ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 30, 2006, Lyle Hansen and Karen E. Hart presiding. Petitioners appeared pro se. Respondent was represented by Michelle Gombas, Esq. Petitioners are protesting the 2005 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**6875 Lemon Gulch Drive, Castle Rock, Colorado  
Douglas County Schedule Nos. R0380822 and R0380847**

The subject property is a 35.005-acre vacant land tract located northwest of Franktown, Colorado. The property is assigned two schedule numbers due to overlapping tax district boundaries.

1. Petitioners are requesting an agricultural classification, or in the alternative, a reduction in property value to \$208,000.00. Respondent classified the property as vacant land and assigned an actual value of \$300,000.00 for tax year 2005.

2. The subject property was rented for temporary horse boarding in 2002, which is not a qualified agricultural use. In 2003, Petitioners used the property for dry land hay. In the spring of 2003, Mr. Franz removed large rocks from the property to allow farming, and contracted to have the hay harvested. However, the crop was not economically viable to harvest. In the fall of 2003, Petitioners planted additional grass seed to improve the crop. Due to climate conditions, the 2004

crop dried up before it could be harvested. Petitioners purchased a seeder and seeded the property again in 2004. In 2005, Petitioners had the hay cut on shares and sold their share (40%) of the crop. In 2006, Petitioners purchased their own haying equipment and harvested the crop themselves.

3. Respondent did not classify the subject as agricultural on the grounds that the property had to be in agricultural use on January 1, 2003 to comply with the three-year determining period. Since the agricultural activities did not occur until the fall 2003, Respondent contends that the property does not meet the two previous years plus current year requirement for agricultural classification for 2005.

4. Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly classified and valued for tax year 2005.

5. Petitioners performed legitimate, qualifying agricultural activities on the subject property in 2003, 2004 and 2005. The nature of agriculture is such that actual use does not always occur on a property at all times throughout the year. For tax year 2005, activities had occurred during the year of appeal and the two previous years, including the fall of 2003. Thus, the subject property meets the definition of a farm as defined in 39-1-102 (3.5) C.R.S.

### **ORDER:**

Respondent is ordered to reduce the 2005 actual value of the subject property based on an agricultural classification.

The Board retains jurisdiction in this matter for two weeks from the date of this decision, by which time the Respondent must notify the Board in writing as to the adjusted value of the subject property for tax year 2005. The Board will then issue a final order based on the adjusted value.

### **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 13<sup>th</sup> day of February 2007.

**BOARD OF ASSESSMENT APPEALS**

*Lyle D. Hansen*

Lyle Hansen

*Karen E. Hart*

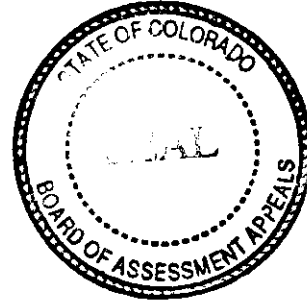
Karen E. Hart

This decision was put on the record

**FEB 13 2007**

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



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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 45181**

Petitioners:

**KEITH A. & LESLIE A. FRANZ,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF EQUALIZATION.**

**FINAL ORDER**

**THE BOARD OF ASSESSMENT APPEALS** retained jurisdiction in this matter until February 27, 2007, at which time the Respondent was to notify the Board in writing of the 2005 actual valuation of the subject property based on an agricultural classification. The Board's Interim Order dated February 13, 2007 is incorporated herein by this reference.

On February 27, 2007 the Board received Respondent's Response to Order indicating that the value of the subject property based on an agricultural classification is as follows:

<u>Parcel No.</u>	<u>Value</u>
R0380822	\$2,829
R0380847	<u>65</u>
	<u>\$2,894</u>

**ORDER:**

Respondent is ordered to change the classification of the subject property to agricultural and to reduce the actual value of the subject property to \$2,894 for tax year 2005.

The Douglas County Assessor is directed to change his/her records accordingly.


**APPEAL RIGHTS:**

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 1<sup>st</sup> day of March 2007.

**BOARD OF ASSESSMENT APPEALS**



\_\_\_\_\_  
Lyle Hansen



\_\_\_\_\_  
Karen E. Hart

This decision was put on the record

**MAR 01 2007**

---

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



\_\_\_\_\_  
Penny S. Lowenthal