

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GLORIA MARIE ADAMSON,</p> <p>v.</p> <p>Respondent :</p> <p>BOULDER COUNTY BOARD OF COMMISSONERS.</p>	<p>Docket No.: 46507</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 6, 2007. Diane M. DeVries, Debra A. Baumbach, and James R. Meurer presiding. Petitioner was represented by David D. Niles, agent. Respondent was represented by Michael A. Koertje, Esq. Petitioner is requesting an abatement/refund of property taxes for 2004 and 2005, challenging Respondent’s classification of the subject property as vacant land. Valuation is not at issue in this hearing.

Both parties have stipulated to a residential classification of the subject property for tax year 2004.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Lot 12, Sierra Antigua, Boulder, Colorado
(Boulder County Account No. R506271)**

The subject property is a residential lot located in rural Boulder County. Lot size is approximately one acre and zoning is F (Forestry). There is a perpetual easement through the northwest corner of the lot that provides access to Lot 11. Lot 11 is under the same ownership as the subject and contains the Petitioner’s single-family residential house. Lot 12 is used, and has always been used, in conjunction with Lot 11 for residential support and amenity purposes. In 1994, Petitioner requested that Lot 11 and Lot 12 be combined under one schedule number for taxation purposes, which was approved by Respondent. In 2004, Petitioner requested that the two lots be split and receive separate schedule numbers, reportably for financing purposes. Respondent

approved the lot split and subsequently reclassified Lot 12 from residential to vacant land for 2005 ad valorem tax purposes.

Petitioner argued that Lot 12 should not have been reclassified because it is contiguous with Lot 11 and was used as a *unit* in conjunction with the residential improvements on Lot 11. Petitioner further argued that the actual use of the lot had not changed and the original residential classification was never found to be erroneous by Respondent.

Respondent argued that since Petitioner requested the lot split in 2004, and Respondent did not consider Lot 11 to be used as a *unit* with Lot 12, the reclassification of the subject to vacant land was reasonable. Respondent further pointed out that there were no residential improvements on the subject property and that common ownership alone was not sufficient to support retaining the original classification.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly classified for tax year 2005. “‘Residential land’ means a parcel or *contiguous parcels of land under common ownership* upon which residential improvements are located and that is *used as a unit in conjunction with the residential improvements* located thereon.” Colo. Rev. Stat. § 39-1-102(14.4) (2006) (emphasis added). “Once any property is classified for property tax purposes, it shall remain so classified until such time as its actual use changes or the assessor discovers that the classification is erroneous.” § 39-1-103(5)(c). The Board finds that the subject property was used as a unit in conjunction with the residence located on Lot 11, also owned by Petitioner. The Board was not presented with any evidence that there were any land use changes during the base period. Therefore, the subject property should retain its residential classification.

ORDER:

Respondent is ordered to reclassify the subject property as residential for tax year 2004 and 2005.

The Boulder County Assessor is directed to change his records accordingly.

APPEAL:

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

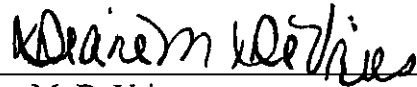
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

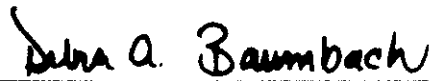
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 24th day of August 2007.

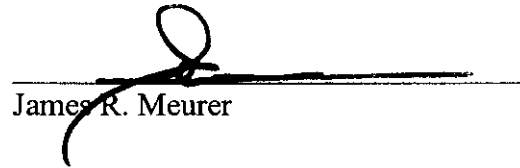
BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



Debra A. Baumbach



James R. Meurer

This decision was put on the record

AUG 23 2007

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


Heather Heinlein

