

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 50522

Petitioners:

BETTY BARKMAN AND JERRY HEAL,

v.

Respondent:

**MONTROSE COUNTY BOARD OF
EQUALIZATION.**

ORDER RETAINING JURISDICTION

THIS MATTER was heard by the Board of Assessment Appeals on June 25, 2009, Diane M. DeVries and Karen E. Hart presiding. Betty Barkman appeared on behalf of Petitioners. Respondent was represented by Carolyn Clawson, Esq. Petitioners are protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Montrose County Schedule No. R0004279

The subject property is a 2.96-acre parcel of irrigated hay ground.

Petitioners purchased the subject property in June 2005. The subject property is contiguous to Mary Lou and Leo Cooper's property. Petitioners share a driveway with the Coopers. Petitioners have a decreed water right and an irrigation head gate.

Petitioner, Ms. Betty Barkman, testified that due to the purchase price and parcel size, the assessor stated the subject's future use would be residential and therefore the land was reclassified to vacant land. However, the actual use of the subject property as an irrigated hay field has not changed. Petitioners have a verbal agreement with the Coopers to irrigate the subject property in exchange for the hay.

Petitioners' witness Ms. Mary Lou Cooper, a farmer/rancher, testified that she and her husband have a year-to-year verbal lease to hay the subject property. The hay is a grass mix and does not need to be planted every year. In exchange for irrigation and weed control, they keep the harvested hay. They harvest about two stacker loads, 80-90 bales, from each cutting. They have two or three cuttings each year. The Coopers have 60 head of cattle and farm and ranch a total of 2,000 acres. The hay is fed to their cattle. The Coopers hayed the subject property prior to Petitioners' ownership and have had a verbal agreement with Petitioners to hay the property continuously since their purchase.

Petitioners are requesting a 2008 subject property classification and valuation as agricultural irrigated farm ground.

Respondent's witness, Ms. Teri Warner, a Certified Residential appraiser with the Montrose County Assessor's office, testified that she inspected the subject property in 2008. Two-thirds of the subject property was irrigated at the time of her inspection and she saw hay bales in the field. However, she does not believe the subject property was used to its full capacity in 2008. The subject property was classified as vacant land after the property was sold to Petitioners in 2005.

Respondent did not present an indicated value for the subject property but instead presented an assessment analysis report.

Respondent presented seven comparable sales including the subject property sale, ranging in sales price from \$70,500.00 to \$110,000.00 and in size from 2.96 acres to 3.12 acres. After an adjustment for time, the sales ranged from \$77,691.00 to \$112,200.00. No other adjustments were made to the sales. No site-specific appraisal was presented; the subject property value was determined using the mass appraisal process.

Respondent classified the subject property as vacant land and assigned an actual value of \$70,000.00 to the subject property for tax year 2008.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly classified and valued for tax year 2008.

Section 39-1-102(1.6)(a), C.R.S. states:

“Agricultural land”, whether used by the owner of the land or a lessee, means one of the following: (I) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as “agricultural land”, consistent with this subsection (1.6), during the ten years preceding the year of assessment.

Section 39-1-102(3.5), C.R.S. states:

"Farm" means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit.

The subject property has been farmed continuously for many years with no break in use. Petitioners have verbally leased the subject property to the neighboring farmer/rancher since 2005 and receive compensation through irrigation labor and weed control. The subject property produces an agricultural product that is used to feed the lessees' cattle. The lessees are in the business of farming and ranching for a profit. The Board finds that the subject property meets the definition of a farm as defined in Section 39-1-102(3.5), C.R.S. and meets the definition of agricultural land as defined in Section 39-1-102(1.6)(a), C.R.S.

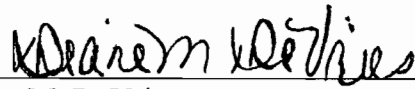
The Board concludes that the 2008 classification of the subject property should be irrigated farm land.

ORDER:

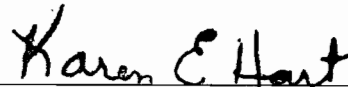
Respondent is ordered to provide the Board with the 2008 actual value of the subject property as irrigated farm land within 14 days of the date of this Order.

DATED and MAILED this 6th day of August 2009.

BOARD OF ASSESSMENT APPEALS

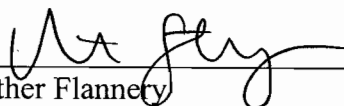


Diane M. DeVries



Karen E. Hart

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


Heather Flannery



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>BETTY BARKMAN AND JERRY HEAL,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 50522</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 25, 2009, Diane M. DeVries and Karen E. Hart presiding. Betty Barkman appeared on behalf of Petitioners. Respondent was represented by Carolyn Clawson, Esq. Petitioners are protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Montrose County Schedule No. R0004279

The subject property is a 2.96-acre parcel of irrigated hay ground.

Petitioners are requesting a 2008 subject property classification and valuation as agricultural irrigated farm ground. Respondent classified the subject property as vacant land and assigned an actual value of \$70,000.00 to the subject property for tax year 2008.

On August 6, 2009 the Board issued an Order Retaining Jurisdiction, concluding the subject property should be classified as irrigated farm land and ordering Respondent to provide the Board with the 2008 actual value of the subject property as irrigated farm land.

On August 19, 2009 the Board received a faxed letter from Brad Hughes, Montrose County Assessor, indicated the 2008 actual value for the subject property as irrigated agricultural property would be \$1,500.00.

On August 26, 2009 the Board received information items from Petitioners.

The Board accepts Respondent's value, as listed on the fax received August 19, 2009, of \$1,500.00 for the subject property.

The Board recommends that Petitioners contact the Montrose County Treasurer with questions regarding the check received from the Montrose County Treasurer.

The Board will take Petitioners' requests for costs under advisement.

ORDER:

Respondent is ordered to classify the subject property as agricultural irrigated farm land and reduce the actual value to \$1,500.00 for tax year 2008.

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

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

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 within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 17th day of September 2009.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries
Diane M. DeVries

Karen E Hart
Karen E. Hart

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

UA flly
Heather Flannery

