

<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>RICHARD A. AND GRACEANN C. STEWART,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>WELD COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51954</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 19, 2010, Karen E. Hart and MaryKay Kelley presiding. Richard A. Stewart appeared pro so for Petitioners. Respondent was represented by Cyndy Giaouque, Esq. Petitioners are protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**E2E2SW4 25-2-68 (County Road 16, Frederick, Colorado)  
(Weld County Schedule No. R5638486)**

The subject is 40 acres of vacant land within the town limits of Frederick in southwest Weld County east of the northern Interstate 25 corridor.

Classification is not at issue in this hearing, agricultural use was discussed but vacant residential classification is not contested.

Respondent assigned an actual value of \$275,000.00 for tax year 2009. Petitioners are requesting a value of \$75,000.00.

Mr. Stewart testified that the subject parcel is of interest to an investment company, has been approved for subdivision use, and that a plat for 121 building sites has been filed. \$1,200,000.00 is required in escrow for development costs.

Mr. Stewart further testified that there are hundreds of abandoned coal mines beneath the surface, dating from the 1940's and 1950's. Also, prairie dogs are prevalent.

Mr. Stewart compared the assessed values of two land parcels: Dacono Investment Company (457 vacant acres) and Sharon McDonald Trust (40 acres with 8,370 square feet of improvements). He understands that the Board will give little weight to these assessed values, but was unable to obtain any sales data for comparison.

Mr. Stewart commented on Respondent's sales: Sale 1 is located in Mead, a more active community than Frederick and nearer larger cities; Sales 2 and 3 sold for their water rights, making them unlike the subject parcel, which has no water rights.

Petitioners questioned Respondent's adjustments for water shares, saying conversations with neighboring farmers suggest \$25,000.00 to \$45,000.00 per share.

Petitioners' requested value of \$75,000.00 is based on the contention that the subject property is worth four times the assigned value of the Dacono Investment 457-acre parcel (\$42.68 per acre or \$19,505.00) rounded.

Respondent presented an indicated value of \$440,000.00 for the subject property based on the market approach. The witness presented three comparable sales ranging in sales price from \$350,000.00 to \$570,000.00 and in size from 35 acres to 40.58 acres. After adjustments were made for water rights associated with Sales 2 and 3, the sales ranged from \$338,297.50 to \$498,497.50 or from \$8,457.00 to \$12,284.00 per acre. The witness concluded toward the higher end of the range at \$11,000.00 per acre because of the subject's proximity to downtown Frederick and Firestone and the associated amenities.

Respondent's witness made no adjustment to Sale 1, which, like the subject parcel, had no water rights. Sales 2 and 3 each carried adjustments of \$71,502.50 for shares of water rights. The sources of these adjustments were verbal and web-based data from New Consolidated Lower Boulder Reservoir and Northern Colorado Water Conservancy District.

Respondent's witness declined use of a \$350,000.00 sale adjacent to the subject parcel because of its December 2004 sale date outside the base period. The Board notes that although this sale occurred prior to the 18-month base period ending June 30, 2008, it did occur within the extended five year data collection period beginning July 1, 2003.

Petitioners did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

Respondent provided the only sales data for comparison to the subject. The Board is concerned, however, by lack of specific sales data regarding water shares and is not convinced that Respondent's water rights adjustments are market based. The Board finds that the lower end of Respondent's adjusted sales prices at \$8,457.00 per acre (totaling \$338,280.00 when applied to the

subject's 40 acres) and the December 2004 sale at \$350,000.00 are better indications of market value, which is recalculated at \$340,000.00.

The Board's recalculation of Respondent's indicated value results in a value higher than the assigned value of \$275,000.00.

**ORDER:**

The petition is denied.

**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 13<sup>th</sup> day of May 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart  
Karen E. Hart

MaryKay Kelley  
MaryKay Kelley

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

HA Flannery  
Heather Flannery

