

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WILLIAM L. COYLE, ET AL.,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 59454</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 11, 2013, Diane M. DeVries and Amy J. Williams, presiding. Mr. William L. Coyle appeared pro se on behalf of Petitioner. Respondent was represented by Mr. Robert D. Clark, Esq. Petitioner is protesting the 2011 classification and actual value of the subject property.

Subject property is described as follows:

**7800 Crowfoot Valley Road
Parker, Colorado 80134
Douglas County Schedule Number R0423941**

The subject property consists of 33.861 acres of land improved with a 1,116 square foot residence constructed in 1907. The subject also includes trees planted in rows over approximately five acres of the southeastern portion of the property.

Petitioner is requesting an actual value of \$127,500 for the subject property for tax year 2011 in the event that agricultural classification is not granted. Respondent assigned a value of \$530,893 for the subject property for tax year 2011 based on residential classification.

The order of hearing first considered evidence and testimony relative to agricultural classification.

Petitioner’s witness, Mr. Coyle, testified that beginning in the mid-1980’s a significant number of trees was planted in the southeast portion of the subject property and a drip irrigation

system was installed. Mr. Coyle further testified that the use of the property as a tree farm has not changed since that time, but that planting and harvesting of trees has slowed since 2008 when demand declined. Petitioner presented several documents that were submitted into evidence, including; two invoices for tree sales dated March 16, 2010; several undated pictures reported to have been taken in 2010; an invoice from Westward Fence, LLC for \$1,459.80 dated January 28, 2012 and corresponding check for payment of invoice; a Pasture Lease Agreement between William Coyle and Tim Sayler dated December 15, 2011; copies of four checks made payable to various individuals with March and April 2011 dates; and an invoice from Hansen Glass Inc. for wire mesh and labor dated March 31, 2011.

Petitioner is requesting the subject receive agricultural classification for tax year 2011.

Mr. Robert Clark, attorney for Respondent, called Virginia Wood, Certified Residential Appraiser to testify. Ms. Wood testified to the chronology of events leading to the removal of agricultural classification of the subject property through the Agricultural Report she prepared and which was admitted into evidence. Ms. Wood stated that no evidence of sales of trees for the last three years was ever presented by Mr. Coyle and that via inspection there was no evidence of cultivation or tree maintenance during that time period. Several photos of the subject property taken over the last several years were presented and Ms. Wood reviewed aerial photos dated between 2006 and 2010. Ms. Wood testified that the aerial photos indicated no change in the tree pattern which might support maintenance, cultivation and harvesting of trees during that time; instead the pattern of trees was stagnant between 2006 and 2010.

During re-direct, Ms. Wood further testified that in order to be considered a tree farm, the tree farming activity must occur on a "regular basis" as directed within the Assessor Reference Library under the heading Tree Farms. See *Assessor's Land Valuation Manual*, Vol. 3 at Section 5.29 ("Tree farms should generally receive agricultural land designation if they plant and grow trees in the soil, cultivate and fertilize the trees, and harvest and sell the trees on a regular basis.") Ms. Wood pointed to the Tree Farm section of the ARL to support her assertion that a tree farm qualifies for agricultural classification if trees are planted in the soil, cultivated and fertilized and harvested and sold on a regular basis.

Respondent assigned a residential classification to the subject property for tax year 2011.

Next in the order of hearing, evidence and testimony regarding valuation of the subject property was considered.

Petitioner presented a computation for value of the home using income and expense figures relative to the rental of the residence.

Petitioner is requesting a 2011 actual value of \$127,500 for the subject property.

Mr. Clark, Respondent Attorney, called Mr. Jerry D. McLeland, Certified Residential Appraiser, as his second witness. Mr. McLeland presented three comparable sales ranging in sale price from \$385,000 to \$475,000 and in size from 1,416 square feet to 1,960 square feet. After

adjustments were made, the sales ranged from \$378,734 to \$537,779. Mr. McLeland testified that the lower end of the value range is supported by a short sale and that the other two sales were not similarly influenced. He further testified that the assigned value for the subject, that of \$530,893 was within the range of value supported by the comparable sales.

Respondent assigned an actual value of \$530,893 to the subject property for tax year 2011.

Petitioner failed to present sufficient probative evidence and testimony to show that the subject property was incorrectly classified and valued for tax year 2011.

The Board concluded that the preponderance of evidence reflects a subject property that has signs of a previous tree farming operation, but which has not operated as a tree farm for many years. The Board understands that a decline in demand for trees beginning in 2008 could have impacted the operational volume of the subject property. However, Petitioner failed to supply evidence in support of ongoing tree farming during the appropriate time period. Relative to the actual value of the subject property, Petitioner's income and expense information was not considered by the Board as residential property is statutorily required to be valued via the market approach. Respondent valued the subject using the market approach and made market extracted adjustments for differences in characteristics between the sales and the subject property. The Board finds that Respondent's comparable sales and adjustments accurately reflect the subject's market value and Respondent properly applied the appropriate methodology for valuing residential property.

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 5th day of April, 2013.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in red ink, appearing to read "Diane M. DeVries".

Diane M. DeVries

A handwritten signature in red ink, appearing to read "Amy J. Williams".

Amy J. Williams

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

A handwritten signature in black ink, appearing to read "Milla Crichton".

Milla Crichton