

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p>THOMAS A. AND MARY S. GROVES,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 70187</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 27, 2018, Debra A. Baumbach and Diane M. DeVries presiding. Thomas A. Groves appeared pro se on behalf of Petitioners. Respondent was represented by John R. Rhoads, Esq. Petitioners are protesting the 2016 actual value of the subject property.

The parties agreed to consolidate Docket Numbers 70187 and 70258 for purposes of the hearing only.

The parties agreed to admission of Petitioners' Exhibit 1 and Respondent's Exhibits A-1, B-2, C-3, D-4, and E-5.

Subject property is described as follows:

**1984 ½ J Road, Fruita, Colorado
Mesa County Schedule No. R010453**

The subject property consists of a 24.22 acres parcel of irrigated agricultural land.

Petitioners are requesting an actual value of \$1.00 for the subject property for tax year 2016. Respondent assigned a value of \$18,800 for the subject property for tax year 2016.

Thomas A. Groves testified that he does not have legal access from J Road to the subject parcel per District Court Case Number 09CV4158 Thomas A. Groves vs. Ted A. Miller et al. vs Mary Groves, et al. He stated that he has non-farm access from the contiguous parcel to the north

which is also owned by Petitioners and a farm access from the northeast and southeast corner of the subject parcel from 20 Road.

Mr. Groves testified that the subject parcel is irrigated agricultural land that he uses to pasture his cattle. When the cattle cannot eat all of the grasses he cuts and bales the hay on the parcel. He stated that he cannot use the subject property to full extent since he cannot access his agricultural parcel through the legal easements off J Road through the residential subdivision.

Respondent presented a value of \$18,800 for the subject property based on the income approach.

Brent Goff, Deputy Assessor with the Mesa County Assessor's Office and Certified General Appraiser, testified as an expert to his appraisal, Respondent's A-1.

Mr. Goff testified that he is required to follow the statutory requirements of Section 39-1-103(5)(a), C.R.S. which mandates that "The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at a rate of thirteen percent."

Mr. Goff determined that the subject property has direct, unimpeded access onto a public road (20 Road) via two gates on the eastern boundary. This access is sufficient to farm the property. The hay production is not diminished by lack of access through the subdivision to the south off J Road. Income and expenses relating to the farm operation would be unaffected if additional access were gained.

Mr. Goff testified that the subject parcel qualifies for agricultural classification due to its use as a farm. He stated that he multiplied a 10-year average commodity price by the yield associated with the subject property's soil classification to derive the gross income. Next, he deducted a 10-year average expense amount from gross income in order to derive net income to the landlord. The net income was capitalized by a statutory 13% capitalization rate to derive the actual value of the subject parcel.

Respondent assigned an actual value of \$18,800 to the subject property for tax year 2016.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2016.

The Board determined that the Board has jurisdiction to hearing Petitioners' appeal concerning the subject's 2016 actual value. The Board found that Petitioners can adequately access the parcel.

The Board determined that Respondent's valuation placed on the subject property is correct. Respondent is required to classify, list and value each parcel within the county. The property is correctly classified as an irrigated agricultural land and Respondent's witness properly applied the

agricultural income approach in determining the 2016 actual value of \$18,800. Petitioners did not present sufficient probative evidence to rebut Respondent's determination of value for the subject.

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-nine 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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-nine 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 10th day of August, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

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

Milla Lishchuk

Milla Lishchuk



Debra A. Baumbach
Diane M. DeVries

Diane M. DeVries