

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket Nos.: 70472**

Petitioner:

**STEVEN W. HARRIS,**

v.

Respondent:

**SAGUACHE COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on February 7, 2018, Diane M. DeVries and James R. Meurer presiding. Petitioner, Steven Harris, appeared *pro se*. Respondent was represented by Ben Gibbons, Esq. Petitioner is protesting the 2017 classification and partial valuation of the subject property.

The subject property is described as follows:

**49310 County Road U, Saguache, CO  
A Portion of Lot 2 and including all of Lot 3, 4-43-8  
Saguache County Parcel No. 4597-041-00-125**

No Rule 11 documents were submitted by either Petitioner or Respondent. The only documentation provided by Petitioner was his petition to the Board of Assessment Appeals, and several attached supporting documents.

Description of the Subject Property

The subject property consists of a 65.07 acre parcel of land located in Saguache County in south central Colorado. The parcel is classified as *residential* by the County. According to testimony and county records, the vertical improvements consist of a single family detached home constructed in 2011, and containing approximately 1,885 square feet plus a loft area. In addition there is a 1,200 square foot detached garage used for storage, maintenance, and parking. The property is serviced by a well and septic, as well as solar.

### Applicable Law

Respondent has placed *residential* classification on the subject for tax year 2017. Petitioner argued that subject should retain the previous *agricultural* classification. Colorado Revised Statutes state the following:

To qualify as “agricultural” under Section 39-1-102(1.6), C.R.S., the land, at minimum, must (1) be used as a farm or a ranch during the tax year at issue; and (2) have been so used during the preceding two-year period.

A “farm” is defined as “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.” Section 13-1-102 (3.5), C.R.S. A “ranch” means a parcel of land which is used for grazing livestock for the primary purpose of a monetary profit. Section 39-1-102(13.5), C.R.S.

### Evidence Presented Before the Board

Mr. Harris based his argument that the property should be classified as *agricultural* on the fact that the subject had originally had agricultural classification, that surrounding properties had agricultural classification, and that his intent was to use the property for ranching purposes at some future date. Mr. Harris agreed that the property did not currently have agricultural uses, and that there was not grazing or a lease for grazing in place.

Respondent presented the testimony of Mr. Peter Peterson, the Assessor for Saguache County. Mr. Peterson indicated that he was familiar with the subject property, had witnessed no agricultural activities on the subject, and had not received any written request from Petitioner to change the existing classification. In addition, Mr. Peterson stated that the classification of a property does not transfer with title; therefore, any previous classifications of the subject were irrelevant.

### The Board’s Findings

In order to be eligible for agricultural classification for 2017 tax year, the subject parcel must have been used as a farm or a ranch in 2015, 2016 and 2017. In addition, evidence must be presented that the farming and/or ranching operations during the statutory three-year time frame were conducted for the primary purpose of obtaining a monetary profit. Evidence of obtaining a monetary profit can be supported by grazing lease agreements, sale receipts, form 1040F or equivalent, purchasing invoices, financial statements, etc.

### Classification Conclusion

Based on a review of the testimony as well as a review of statute and Assessor’s Reference Library (ARL) guidelines pertaining to agricultural classification, the Board concludes that Saguache County properly classified the subject a residential for tax year 2017. The subject did not meet the statutory requirements for *agricultural* classification.

### Valuation of the Garage

Mr. Harris further argues that the detached 1,200 square foot garage should be classified as an out-building rather than residential, and was over-valued by the County. Mr. Harris testified that the detached garage was used for parking, storage, and wood working and should not be considered a “living unit” by the County.

Mr. Peterson explained to Petitioner that the detached garage was considered as a part of the residential improvements, and was not considered and valued as an additional living unit by the County. Mr. Peterson further explained that the garage was appropriately valued at 45% of the per square foot value applied to the house after depreciating the value of the improvements at 9.43%.

### Valuation Conclusion

Colorado case law requires that “[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence.” *Bd. of Assessment Appeals v. Sampson*, 105 Pd.D. 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent’s valuation of the garage is appropriate. Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2017.

### **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 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-nine days after the date of the service of the final order entered).

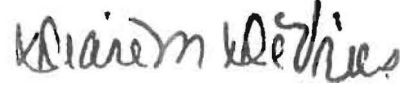
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 20th day of February, 2018.

**BOARD OF ASSESSMENT APPEALS**



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Diane M. DeVries

  
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James R. Meurer

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

  
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Milla Lishchuk