

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 70557

Petitioner:

ASPEN VALLEY POLO CLUB, LLC,

v.

Respondent:

GARFIELD COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 16, 2018, Debra Baumbach and Amy J. Williams presiding. Petitioner was represented by Michael J. Sawyer, Esq. Respondent was represented by Kathryn Johnson, Esq. Petitioner is protesting the 2017 classification of the subject property.

The parties stipulated that this hearing is in regard to classification only. Valuation of the subject property is not at issue. The parties stipulated to the admission of Petitioner's Exhibits 1, 1-1 and 2 through 12. The parties stipulated to the admission of Respondent's Exhibits A through D. Finally, the parties agreed to admit Kyle Hooper as an expert witness.

Subject property is described as follows:

**3275 100 County Road,
Carbondale, Colorado
Garfield County Schedule Nos. R006262 and R006263**

The subject property is located at the corner of Highway 82 and Garfield County Road 100 and consists of two Garfield County accounts, R006262 totaling 15.208 acres and R006263 totaling 0.37 acres. The property is improved with a 6,686-square foot, two-story, three-unit townhome, a 51,900-square foot horse barn, an outdoor polo/riding arena, 36 corrals, and a non-regulation sized polo field. The 0.37-acre account is utilized as a parking lot and located at the southeast corner of the improved property.

Petitioner is requesting agricultural classification for the subject property for tax year 2017.

Petitioner called Dr. Daren Tamplin, DVM, as a witness. Dr. Tamplin testified that he is self-employed, but that Aspen Valley Polo Club (AVPC) is his primary client. Since 2013 he has spent July to September at the club performing medical and reproductive consulting work for the polo horse breeding and training operation at AVPC. He indicated that there were four stallions on-site and, on average, 50 to 60 mares; breeding taking place at the AVPC and foaling taking place at the sister facility in Florida. Dr. Tamplin testified that the AVPC, in conjunction with the Florida facility, is in the business of breeding and training polo horses for sale. Polo horses are termed "green" horses until they are age 6 to 7, after which they are termed "made" horses and achieve the greatest sale prices. The Aspen location is considered a quality summer training location due to its cooler climate and higher altitude, with the Florida location offsetting in the winter months.

During cross examination, Dr. Tamplin testified that he lives off-site while working at the AVPC but is at the facility every day. He does oversee the horses' diet which is comprised of grain, hay and limited turn-out grazing. Dr. Tamplin reported that grazing makes up 10 to 30 percent of the polo horse diet, but he indicated the amount of grazing is highly variable. He also testified that the property handles 90 to 100 horses total in the summer months.

Petitioner next called Jeanine Ramirez, General Manager and Accountant for Aspen Valley Polo Club, as a witness. Ms. Ramirez testified that Aspen is a great summer location, offering a cooler climate and higher altitude for polo horse training. She stated that the four stallions on site were desirable in the polo community for their calm dispositions. AVPC is offering all of their offspring for sale along with stud services. She stated that the bred polo horses are foaled and trained at the Florida location until approximately age four; they then continue their training at AVPC. Ms. Ramirez testified as to polo horse training regimen, noting that "made" polo horses achieve the highest sale prices. The best way to market and sell polo horses is through tournaments and general polo play. AVPC seeks to make a profit through tournament fees, polo horse rental, stud fees, and most importantly, the sale of polo horses.

Ms. Ramirez further testified that polo horses have specialized diets high in protein comprised of alfalfa, grains and grazing. Exhibit 4 was presented, showing pictures of four or five horses grazing at AVPC. With the use of temporary electrical fencing, small numbers of horses were turned out for a couple hours in the early morning for rotational grazing on defined areas of the property.

During cross examination, Ms. Ramirez responded that the housing on site was used for business purposes, housing polo professionals, buyers and employees, not rented long term. She affirmed that no foals have been birthed at AVPC, all deliveries have occurred in Florida and, thus far, all polo horse sales have occurred in Florida. Ms. Ramirez stated that the polo field was not regulation size, that the field was well maintained, fertilized and the grass surface mowed three to four times per week. She testified that she sees horses grazing the property most days and that the grazing is limited to prevent weight gain. Grazing occurs around the edges of the property, not the interior of the polo field and no hay production occurs on site.

Respondent called Amber Knox, Residential and Agricultural Appraiser, Garfield County Assessor's Office, as a witness. Ms. Knox directed attention to Page 10 of Exhibit A, an aerial view

of the two subject properties. She testified that the main subject property, Schedule No. R006262, was purchased on October 9, 2013 for \$1,850,000 and the parking lot parcel, Schedule No. R006263, was purchased on October 24, 2013 for \$250,000. The subject property is currently classified as part residential and part recreation. Ms. Knox stated she inspected the subject property in June, July, September and November of 2017, and no evidence of horse grazing was observed. Referring to Page 9 of Exhibit A, Ms. Knox noted that based upon the current, active uses of the property, only four percent of the surface area was available for grazing, said area highlighted in yellow on Page 10 of Exhibit A. No other polo clubs exist in Garfield County. Two polo clubs in Colorado were presented in Petitioner's Rebuttal Exhibits 10 and 12. Ms. Knox, based upon inquiry with the Douglas County Assessor's Office and the Arapahoe County Assessor's Office, testified that both clubs were classified as agriculture based upon hay production and pasture acreage dedicated to horse grazing.

Respondent next called Kyle Hooper, Agricultural Valuation and Classification Expert, Colorado Division of Property Taxation, as a witness. Mr. Hooper testified that after reviewing the evidence and testimony relative to Aspen Valley Polo Club, he concluded that AVPC does not meet the grazing standard within the statutory definition of agricultural land. Based on Section 39-1-102(1.6)(a)(I)(A), C.R.S., Colorado Assessors are directed to use a two-prong test when classifying property as agricultural for property taxation purposes; first, the land must be grazed by livestock; second, the use of the grazing livestock must be for the primary purpose of obtaining a monetary profit. Mr. Hooper stated that the level of grazing available at AVPC offered no reasonable degree of significance for the diet of the polo horses. Further, the grazing areas available were incidental to the primary surface operation of the subject, that of polo horse breeding and training.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly classified for tax year 2017.

Statewide, agricultural classification for property tax purposes is governed by Section 39-1-102(1.6), C.R.S. Additionally, agricultural land classification guidance is offered by the Assessor's Reference Library (ARL). In the subject instance, Aspen Valley Polo Club is seeking agricultural classification pursuant to a statutory definition of a "ranch." Section 39-1-102(13.5), C.R.S. defines "ranch" as "a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit. For the purposes of this subsection (13.5), 'livestock' means domestic animals which are used for food for human consumption, breeding, draft, or profit." The ARL directs Assessors to use a two-prong test for agricultural classification under the definition of "ranch." First, the land must be grazed by livestock. Second, the use of the grazing livestock must be for the primary purpose of obtaining a monetary profit.

Evidence presented before the Board offered little dispute that the primary purpose of the subject Aspen Valley Polo Club property is to derive a profit from the breeding and training of polo horses. However, what is in dispute is whether the polo horses are "grazing livestock." The Board finds Respondent Exhibit A, Pages 9 and 10, persuasive as to this issue. Considering all of the active uses of the subject property (horse barn, parking lot, polo field, horse corrals, enclosed polo arena, lawns, landscaping, driveways) only four percent of the surface area remains available for livestock grazing. Four percent of the subject's 15.578 total acres is less than one acre, and that available area

is in a narrow configuration around the largely unfenced edge of two sides of the property. The Board does not consider grazing of the polo field reasonable as it is well maintained, fertilized and mowed three to four times per week. Overall, the size of the available grazing area along with the logistics necessitated by the configuration of this area, renders livestock grazing on the subject property meaningless. The Board recognizes that there is no minimum amount of grazing defined within the statutory definition of a “ranch,” however, that does not mean that a de minimis, contorted grazing effort was contemplated within the statutory framing of agricultural classification for property tax purposes.

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 5th day of February, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Deborah Baumbach

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.

Milla Lishchuk

Milla Lishchuk

