

STATE OF NEW MEXICO  
COUNTY OF SANDOVAL  
THIRTEENTH JUDICIAL DISTRICT COURT

KENNETH DeHOFF &  
KATHLEEN DeHOFF,

Appellants/Cross-Appellees,

Case No. D-1329-CV-2023-01382

*versus*

LINDA P. GALLEGOS,  
*in her official capacity as*  
SANDOVAL COUNTY ASSESSOR,

Judge Martinez

Appellee/Cross-Appellant.

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**NOTICE OF CROSS-APPEAL OF LINDA P. GALLEGOS**

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Linda P. Gallegos, in her official capacity as Sandoval County Assessor, gives notice of a cross-appeal to the Thirteenth Judicial District Court of a decision of the Sandoval County Valuation Protest Board. This notice is given pursuant to NMSA 1978, § 7-38-28 (2015)<sup>1</sup>, NMSA 1978, § 39-3-1.1(C) (1999)<sup>2</sup>, and Rule 1-074, NMRA.

1. The party taking this cross-appeal is Linda P. Gallegos, in her official capacity as Sandoval County Assessor, 1500 Idalia Road, Building D, P.O. Box 40, Bernalillo, New Mexico 87004.
2. This cross-appeal is taken against Kenneth DeHoff and Kathleen DeHoff, 66 Bad Coyote Place, Corrales, New Mexico 87048.

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<sup>1</sup> NMSA 1978, § 7-38-28 (2015) reads “A property owner may appeal an order made by a county valuation protests board by filing an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.”

<sup>2</sup> NMSA 1978, § 39-3-1.1(C) (1999) reads “A person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision.”

3. The hearing of the Sandoval County Valuation Protest Board was held in Sandoval County. Venue is proper in the Thirteenth Judicial District Court sitting in Sandoval County pursuant to NMSA 1978, § 39-3-1.1(C) (1999).<sup>3</sup>
4. The name and address of the Gallegos’s appellate counsel are the same as the attorneys filing this cross-appeal, namely Michael Eshleman, Sandoval County Attorney; John M. Butrick, Deputy County Attorney; and Eric J. Locher, Assistant County Attorney. Their contact information appears in the signature block below.
5. This appeal is from the Sandoval County Valuation Protest Board and seeks review of the “Decision and Order,” filed September 6th, 2023, in *In re Protest of DeHoff*. A copy of that order is attached as Exhibit A.
6. This appeal is being filed within the thirty days permitted by NMSA 1978, § 39-3-1.1(C) (1999) and Rule 1-074(E), NMRA.<sup>4</sup>

*(Signature Page Follows)*

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<sup>3</sup> NMSA 1978, § 39-3-1.1(C) (1999) reads “The appeal may be taken to the district court for the county in which the agency maintains its principal office or the district court of any county in which a hearing on the matter was conducted.”

<sup>4</sup> Rule 1-074(E), NMRA, states “Unless a specific time is provided by law or local ordinance, an appeal from an agency shall be filed in the district court within thirty (30) days after the date of the final decision or order of the agency.”

Respectfully submitted:

MICHAEL ESHLEMAN,  
SANDOVAL COUNTY ATTORNEY

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney  
John M. Butrick,  
Deputy County Attorney  
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Assistant County Attorney  
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*Certificate of Service*

I certify that on September 26th, 2023, I e-mailed a copy of this document to:

Kenneth & Kathleen DeHoff  
66 Bad Coyote Place  
Corrales, New Mexico 87048  
[ksdehoff@comcast.net](mailto:ksdehoff@comcast.net)  
[ksdehoff@netwks.com](mailto:ksdehoff@netwks.com)

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney

STATE OF NEW MEXICO  
COUNTY OF SANDOVAL  
THIRTEENTH JUDICIAL DISTRICT COURT

KENNETH DeHOFF &  
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**EXHIBIT A**

**TO THE**

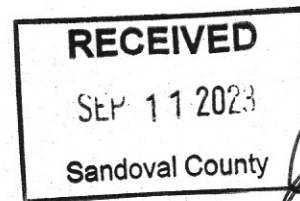
**NOTICE OF CROSS-APPEAL OF LINDA P. GALLEGOS**

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BEFORE THE SANDOVAL COUNTY  
VALUATION PROTESTS BOARD

IN THE MATTER OF THE PROTEST OF:

Kenneth & Kathleen DeHoff  
66 Bad Coyote Place  
Corrales, NM 87084



DECISION AND ORDER

This matter came on for hearing before the Sandoval County Valuation Protests Board (hereinafter called the "Board") on the 8<sup>th</sup> day of August 2023 at 9:00 AM. All applicable Statutes, Property Tax Division regulations, arguments, and evidence presented at the hearing were fully considered by the Board, and the Board, being fully informed in the premises, finds as follows:

1. The Board has jurisdiction of the subject matter and parties.
2. The property owner was fully informed as to all statutes and Property Tax Division regulations governing procedures before the Board and was further informed to the method of valuation used by the Sandoval County Assessor in determining the value of the subject property.
3. The Assessor appeared in person and was represented by Jake Ortiz y Pino, Edward Olona, and Lawrence Griego.
4. The property owners appeared in person.
5. Three vacant parcels are under protest identified by Parcel Codes; 1-017-070-085-125, assessed at \$195,044; 1-017-070-074-118, assessed at \$204,000; and 1-017-070-124-119, assessed at \$204,000. The property owners amend their values to \$153,000, \$160,000, and \$160,000 respectively.
6. The fourth parcel under protest is improved with a house and barn and is identified as Parcel code 1-017-070-022-122. The Assessor amends the assessed value for this parcel from \$1,163,993 to \$986,368. The property owners assert a value of \$793,000.
7. We start with the fundamental proposition of New Mexico law that "Values of property for property taxation purposes determined by the ... assessor are presumed to be correct." NMSA 1978, Section 7-38-6. In order to rebut that presumption, "the taxpayer has the burden of coming forward with evidence showing that the values for property taxation purposes ... are incorrect." Thus, we look to the property owner to show that "the assessor did not follow the

statutory provisions of the Act or by presenting evidence tending to dispute the factual correctness of the valuation." *New Mexico Baptist Foundation v. Bernalillo County Assessor*, 93 N.M. 363 (Ct. App. 1979).

8. The Board is bound to make our decision based on substantial and competent evidence. NMSA 1978, Section 39-3-1.1; Rule 1-074 NMRA. "A valuation may not be placed on a property arbitrarily." *Cibola Energy Corporation v. Roselli*, 105 N.M. 774 (Ct. App. 1987).
9. "What is most important is that the appraisers, the assessor and the protest board exercise an honest judgment based upon the information they possess or are able to acquire." *First National Bank v. Bernalillo County Valuation Protests Board*, 90 N.M. 110,114, 560 P.2d 174,178 (N.M. Ct. App. 1977).
10. The Board interprets the statutory requirements that one of the three board members must have demonstrated experience in the field of valuation of property and that one be an employee of the Property Tax Division (NMSA 1978, Section 7-38-25) to be an indication that the legislature expects us to review the evidence in front of us in light of our training and experience in the area of appraisal practice. See also, NMAC Section 3.6.7.36(H)(1), ("Board members may use their knowledge and experience to evaluate evidence admitted.")
11. "[T]he value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or cost methods of valuation or and combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority ... shall apply generally accepted appraisal techniques." NMSA 1978, Section 7-36-15(B).
12. Generally accepted appraisal techniques often provide more specific guidance as to which valuation approach is an appropriate method of solving a given problem. See generally, Appraisal Institute, *The Appraisal of Real Estate*, (10th ed. 1992); International Association of Assessing Officers, *Property Assessment Valuation*, (2nd ed. 1996).
13. Evidence of the assessed value of comparable properties is not relevant to show valuation, *Peterson Properties v. Valencia County Valuation Protests Board*, 89 N.M. 239 (Ct. App. 1976), and is not relevant to a property owner's case absent proof of "some well-defined and established scheme of discrimination or some fraudulent action," *Skinner v. New Mexico State Tax Commission*, 66 N.M. 221 (S. Ct. 1959), which we find entirely lacking here.

14. We cannot assume that the current and correct market value equates to the assessed valuation of surrounding properties. Rather, in our experience, it often does not.
15. This results in a situation with a certain amount of imbedded inequity, but not a situation that we are at liberty to rectify in the absence of appropriate data to support our order. See, e.g., *Hannahs v. Anderson*, 126 N.M. 1, 1998-NMCA-152 (S. Ct. 1998) ("mathematical exactitude" is not required).
16. The property owners timely filed an application for the special method of valuation for irrigated use with the Sandoval County Assessor for the three vacant parcels of land.
17. NMSA 1978, Section 7-36-20A provides, "The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made."
18. The property owners testified the land was not used primarily for agricultural purposes, nor had the capacity to produce agricultural products in the year preceding the tax year they applied. Therefore, the Board finds the presumption of correctness in favor of the Assessor has not been overcome and upholds the Assessor's denial of the special method of valuation for agricultural purposes for the three vacant parcels.
19. For the valuation of the three vacant parcels of land the property owner argues the Assessor is valuing their land with dissimilar comparables, and the property owner presented additional sale data, assessed values, and analysis.
20. The property owner presented an exhibit Agenda with photos and argument, an exhibit of "Evidence" containing market data and analyses, and an exhibit of the agricultural applications submitted to the Assessor's office.
21. The Assessor presented three vacant land sales and photographs, the opinion from *In re Alexander* (1999-NMCA-021, 126 N.M. 632, 973 P.2d 884), six improved sales in support of the amended value for the parcel improved with the residence and barn, and additional case law including *In re First Nat'l Bank*, 1977-NMCA-005, 90 N.M. 110, 560 P.2d 174 (Ct. App. 1977), and *Hannahs v. Anderson*, 126 N.M. 532, 972 P.2d 351 (S. Ct. 1998).
22. The property owner's evidence and testimony convinced the Board that the land values in south Corrales are not comparable to north Corrales. Thus, for

the three vacant parcels, the Board finds the property owner met and overcame the statutory presumption of correctness as to value.

23. For the parcel improved with the house and barn the Board finds the property owner did not overcome the statutory presumption of correctness, and the Board further notes the evidence and testimony supported the assessor's amended value.

The Board, therefore, orders the following changes to the 2023 valuation records of the Sandoval County Assessor with respect to the following described properties:

Property Code: 1-017-070-085-125

FROM: \$195,044  
TO: \$153,000

Property Code: 1-017-070-074-118

Property Code: 1-017-070-124-119

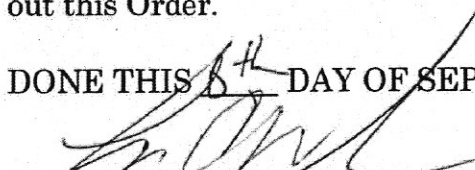
FROM: \$204,000  
TO: \$160,000

Property Code: 1-017-070-022-122

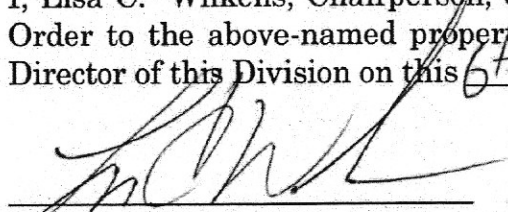
FROM: \$1,163,993  
TO: \$986,368

The Board directs the Sandoval County Assessor to take appropriate action to carry out this Order.

DONE THIS 6<sup>th</sup> DAY OF SEPTEMBER 2023

  
\_\_\_\_\_  
Lisa C. Wilkens, Chairperson  
Sandoval County Valuation  
Protests Board

I, Lisa C. Wilkens, Chairperson, certify that I sent, by certified mail, a copy of this Order to the above-named property owner, the Sandoval County Assessor, and the Director of this Division on this 6<sup>th</sup> day of September 2023.

  
\_\_\_\_\_  
Lisa C. Wilkens, Chairperson