

## Wyo. Justices Deny Grazing Land Agricultural Classification

By **Philip Rosenstein**

Law360 (December 3, 2018, 3:17 PM EST) -- The Wyoming Supreme Court has upheld a state district court decision that found the owners of land used for cattle grazing did not meet all the elements needed to obtain agricultural land classification, confirming the initial finding of a county assessor.

The Thursday decision found the owners of four parcels, Helmut J. Mueller LP, Josef Matuschka, Chicago Properties LP, Jerome P. Glunz and John P. Glunz, who used the land for cattle grazing had not satisfied one of the requirements necessary for the land to be classified as agricultural property. It was not proven the land was used "consistent with the land's size, location and capability to produce."

Despite testimony from groups that had leased the land for cattle grazing during the period covered by the 2014 assessment by the Washakie County Assessor, it was not clear to the court that the land had been used to its full capacity, as required under [Wyoming law](#).

The owners had Mike Reilly, president of the board of Otter Creek Grazing Association, which leased the parcels, testify on their behalf.

"[Reilly] did not testify to actual use tied to each specific property consistent with its size, location, and capability to produce as defined by department rules and the mapping and agricultural manual published by the department," the court said.

Under Wyoming law, a parcel can be classified as agricultural land if four requirements are satisfied. Those include the land being using for an agricultural purpose, not being part of a "platted subdivision," generating at least \$1,000 when leased in yearly gross revenue and being employed consistent with the size and capability of the land.

While the court said the owners had satisfied the first three requirements, it was unable to deduce from the evidentiary record that the fourth had been satisfied.

"Taxpayers assumed, but failed to meet, their burden to overcome the presumption in favor of the assessor's 2014 assessments," the court concluded. "The record speaks for itself. Taxpayers cannot rely on the county board's unsupported comparison of each property's actual lease income with its expected lease income under the Department of Revenue's agricultural valuation study; nor can taxpayers meet their burden by baldly attacking the assessor's comparison methodology."

After the assessments were initially appealed to the county board, the assessor's determination that the parcels were not agricultural land was reversed. The county assessor appealed to the Wyoming State Board of Equalization, which sided with the assessor and reversed the county board's decision. The Washakie District Court upheld the state board's decision, and the property owners appealed to the state Supreme Court.

"The Wyoming Supreme Court's decision provides helpful precedent for not only Wyoming's county assessors, but also for landowners seeking to have their property classified as agricultural," Tyler J. Garrett, counsel for the Washakie County Assessor, told Law360 via email. "The court's opinion sets forth a well-reasoned roadmap regarding a landowner's burden of proof, and illuminates the type of evidence that is necessary to satisfy the fourth statutory requirement."

Counsel for the property owners did not immediately respond to requests for comment.

The property owners are represented by David M. Clark of Greear Clark King PC.

The Washakie County Assessor is represented by Tyler J. Garrett of Hathaway & Kunz LLP.

The case is Helmut J. Mueller LP et al. v. Kathy Treanor, Washakie County Assessor, case number S-18-0009, in the Wyoming Supreme Court.

--Editing by Neil Cohen.

*Update: This story has been updated with comment from Garrett.*

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