

DEFENDING THE VALUE OF OUR LAND

Agricultural Valuation in Santa Fe County

ENRIQUE ROMERO

Nambé is one of the most beautiful places in northern New Mexico, especially when the seasons are changing. The transition from winter to spring is one of my favorites. While most everything else lies dormant under the cold, moist soil, the wild orchard grass and the irises, eager to get an early start, break through the remnants of last year's fertility. The snow-packed Sangres tower over the village, reminding us of the source of the 17 acequias that divert the Río Nambé, providing water to over 1,700 acres of land in the valley. One of those acequias, La Acequia Nueva, irrigates the property of native Nambeseño Orlando Romero.

Orlando's property, which he has named La Villa Enrique in honor of his grandfather, who moved to the property in 1929, is a wonderful balance of nature and domesticity. During this time of year, bees swarm around apricot trees in full bloom. The trees are not planted military style in organized rows or set a certain number of feet apart. Rather, they surround his home and have been strategically placed, so that he can take advantage of the deep shade the large apricot and apple trees provide. Under the fruit trees are picnic tables where Orlando and his family enjoy outdoor gatherings during the spring, summer and fall. While the trees provide shade, the cool acequia water that flows through the laterals that meander just outside his front porch cool off the earth during the summer. The laterals provide water to grapevines, flower and

vegetable gardens and nearly three-dozen apple, cherry, apricot and peach trees. Orlando has made creative and efficient use of his 2.9 acres.

The law simply ignores the historic and modern reality of northern New Mexico.

Now, all around the property is evidence of spring cleaning. There are piles of branches ready to be mulched, new fruit trees ready to be planted and clean laterals ready to take on the responsibility of making this place come to life. Orlando has been irrigating every year since his return from graduate school in 1976. The spring cleaning is a lot of work, but the rewards at the end of the year and during the hot summer months make the work meaningful.

In late January, Orlando received a letter from the Santa Fe County Assessor. The letter stated that his land would lose its agricultural status for property tax valuation in 2016 unless he provided proof that it was "still primarily used for agricultural purposes." The letter suggested that Orlando, as the landowner, had the burden of showing the assessor, by July 1, 2015, that the land was being used for agriculture. Orlando was outraged when he read the letter. He says he remembers someone from the Assessor's Office coming to the property a year or two ago, and that soon afterward, his 2014 property taxes

skyrocketed. He thinks that it must have been during this "site visit" that the employee made the determination that his land was no longer being used for agriculture. "The only thing that makes any sense," Orlando says, "is that this employee came out when everything was dormant and didn't see the laterals throughout the property. Or maybe the employee didn't know what he was looking for."

Now Orlando, and every other property owner who received this letter, has to submit evidence of agricultural use, including photos, inventories of agricultural products and receipts of agriculture-related purchases. The ball's in his court now, and Orlando is preparing to refute the assessor's erroneous conclusions.

For Orlando, the burden of submitting proof of what should be obvious was not the most outrageous part of the letter. Rather, it was the conclusion that "agricultural use [had] been abandoned for an excessive number of years." The letter didn't say how many years but referred to the statutes and regulations under which the assessor's determination was made.

So what do the statutes and regs say? Section 7-36-20 NMSA 1978 states that the valuation is based on the "land's capacity to produce agricultural products." Agricultural products are fairly inclusive and range from the most obvious items—plants, crops, trees, orchard crops, livestock, dairy products, honey and wool—to less common products like mohair, hides, pelts and fish. Basically, as long as the products are either used for subsistence or sold, or used to produce other products that are then sold or used for subsistence, state law allows the agricultural valuation. Landowners, who are resting their land to maintain its capacity to produce agricultural products later, may also receive the agricultural valuation. Also, certain lands in federal soil-conservation programs may qualify.



Orlando Romero proudly showcasing some of his grapes

Even with this rather expansive definition of "agricultural products," the valuation has limitations. For example, the regulations require a minimum of one acre of land to qualify for the agricultural valuation. Landowners who own less than one acre may still qualify if the agricultural products produced on the land are orchards, poultry, or fish. If the land also includes a home, the regulations presume that the home site is one acre. Therefore, one acre will be subtracted from the land valued as ag unless the landowner can prove the home site is less than one acre. Another restriction pertains to grazing. Even if the landowner owns more than one acre of land, he or she may not necessarily qualify for the agricultural valuation if the land is used for grazing. Each year, the Property Tax Division establishes the carrying capacity of grazing land and bases the minimum-acreage requirement on the carrying capacity. Currently, in Santa Fe County, the minimum acreage to qualify for the agricultural valuation for Class A properties is 80 acres, and for Class B it is 54 acres.

The minimum-acreage requirement for grazing and for growing crops is what frustrates Orlando the most and is the main reason why he feels the law is flawed. The law simply ignores the historic and modern reality of northern New Mexico. Orlando, a historian and writer, says that the Spanish colonial record indicates that the small plot predominated during the colonial period, and, as late as the 19th century, the "long lots" of northern New Mexico were composed primarily of small acreages. Like today, families made efficient use of plots of land



Romero home in Nambé

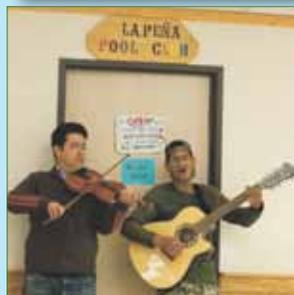
between one-half and one acre, growing many varieties of vegetables and other produce. Families used those small plots for growing food for subsistence, for sale or to give to their extended family. When it comes to the grazing requirement, Orlando says it was rare for one farmer to own 50 acres of land just for grazing. In fact, it was common, even when he was a child, to graze goats and cows along the riverbanks in lieu of grazing on one's own property. Also, it was not uncommon for a farmer to purchase feed from a neighboring farmer to supplement what he grew for his livestock.

So, for now, Orlando is going to do what he's always done. He'll prune his fruit trees and grapevines, till his gardens and wait for La Acequia Nueva to deliver the lifeblood of this valley's history and culture. If he is unable to convince the assessor, Orlando is prepared to protest the valuation in 2016 before the County Valuation Protests Board. He doesn't want it to come to that, but receiving the agricultural classification is more than just about relieving the burden of increased property taxes. It's about preserving historical continuity and the importance of the small agricultural plot in northern New Mexico. ❄️

Native New Mexican Enrique Romero is a staff attorney at New Mexico Legal Aid, Inc., where he works exclusively in its Land and Water Rights Program. Romero attended the University of Notre Dame and, in 2014, was a recipient of that school's Shaffer Public Interest Law Fellowship. Orlando Romero is Enrique's father.



NORTHERN NEW MEXICO SEED EXCHANGE



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Last month, the 10th annual Pueblos y Semillas Gathering and Seed Exchange took place in Peñasco. The event was hosted by the New Mexico Food & Seed Sovereignty Alliance, which is comprised of the New Mexico Acequia Association, Traditional Native American Farmers' Association, Honor Our Pueblo Existence and Tewa Women United.

AGRICULTURAL LANDS TAX HIKES CHALLENGED

State tax law is critical to keeping agricultural lands in production and to protecting the traditional fabric and culture of communities with long ties to the land.

About 460 Santa Fe County residents and at least several thousand people around New Mexico are fighting to keep their agricultural-use tax rate, which is considerably less than annual property taxes at the residential rate. An assessment in 2014 by the County Assessor's Office found that 1,539 of about 2,000 properties were verifiable as agricultural. The rest were questionable. Those landowners were sent letters requesting documentation to show that their property is still agricultural.

That resulted in a lot of angry people, many of whom are challenging those assessments. In recent months, the newly elected county assessor, Gus Martínez, and his staff have met with property owners at community meetings.

Understanding the importance of the ag valuation to agricultural communities across the state, the New Mexico Acequia Association (NMAA) took the lead in advocating for and passing a bill (SB 112) during the 2015 legislative session by building a statewide and bipartisan coalition to expand the definition of agricultural use for property valuation to include the resting of land under certain conditions such as drought. Over time, some families have subdivided their properties and sold off parcels. Changes to the initial draft bill removed the minimum-acreage requirement and the inclusion of recreational horses. The final bill signed by Gov. Martínez provides an additional tool to help county assessors better meet the concerns of agricultural land users. The bill states:

"Agricultural use" includes the resting of land as the direct result of at least moderate drought conditions as designated by the USDA if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year and provided that the land was used in the tax year immediately preceding the previous tax year primarily for the production of agricultural products.

AG LANDS VALUATION WORKSHOP – MAY 7 • NAMBÉ COMMUNITY CENTER

The NMAA is hosting a workshop on May 7, at Nambé Community Center to help Santa Fe County residents and anyone else interested in the valuation process understand this topic. For more information, call 505.995.9644.

Grow Your Santa Fe County Business

Attend the Business Forum

4:30 – 6:30pm, Tuesday May 5th

email: soshea@sfbi.net or call 505-424-1140

FREE at the Santa Fe Business Incubator, 3900 Paseo del Sol

Network with participating providers to learn about Free Business Assistance options

