BOARD OF ASSESSMENT APPEALS, **STATE OF COLORADO** 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **STANLEY AVIATION CORPORATION,** v. Respondent: **ADAMS COUNTY BOARD OF EQUALIZATION.**	
Attorney or Party Without Attorney for the Petitioner: Name: Thomas L. Caradonna, Esq. Lewis, Rice & Fingersh, L.C. Address: 500 North Broadway, Suite 2000 St. Louis, Missouri 63102-2147 Phone Number: (314) 444-7600 Co-Counsel: Name: Kenneth S. Kramer, Esq. Address: 370 – 17th Street, Suite 2600 Denver, Colorado 80202 Phone Number: (303) 825-0800	**Docket Number: 37714**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 1, 2001 and August 1, 2001, J. Russell Shaw, Debra A. Baumbach, and Karen E. Hart presiding. Petitioner was represented by Thomas L. Caradonna, Esq., co-counsel with Kenneth S. Kramer, Esq. Respondent was represented by Jennifer Leslie, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

PERSONAL PROPERTY
(Adams County Schedule No. P0001058)

Petitioner is protesting the 2000 actual value of the subject property, business personal property located at 2501 Dallas Street in Aurora, Colorado.

ISSUES:

Petitioner:

Petitioner contends that their appraisal report considered all three approaches to value, and actually used both the market and cost approaches. All but 15 of the personal property items are valued based on market data. The remaining 15 items were valued using the cost approach, as there was insufficient market data for those items. The market approach is the most accurate approach to value. Respondent only used the cost approach.

Respondent:

Respondent contends that all three approaches to value were considered, but the cost approach was used, as it was considered to be the most accurate for the subject personal property. The assigned value was determined using information reported by Petitioner and applying Division of Property Taxation guidelines, which are binding on all Colorado Assessors.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Leslie H. Miles, Jr., ASA, CEA, of MB Valuation Services, Inc., presented the following indicators of value:

Market/Cost Combination:	$3,298,198.00

2. Mr. Miles testified that he has been valuing property for over 30 years, primarily machinery and equipment. He visited the property location and personally inspected each and every item of personal property. The property consists of manufacturing or cutting and fabricating metals. There is computer controlled equipment as well as standard machine tools, lathes, mills, hand tools, office furniture, etc.

3. Mr. Miles testified that the concept of actual value is the application of the three valuation approaches of income, market, and cost. It is an objective value determined from transactions between a willing seller and a willing buyer, without compulsion. The majority of the subject property equipment is standard and is sold individually in the market. He valued each individual item and prepared an appraisal report. It itemizes each piece of property showing location, quantity, description, condition, the valuation approach used, and the concluded value.

4. Mr. Miles testified that when he is on site, he does an audit and lists each piece of equipment at the plant. The on-site listing took 10 man-days, with another day to review. Each item is listed with its condition from observed operation of the equipment and discussions with the operators and the maintenance supervisor. An average condition is shown as a (C) in the report; each code represents a specific condition.

5. Mr. Miles testified that he considered each item's highest and best use; the use of each property that would receive its highest return. Unless otherwise stated, the equipment was appraised for the purpose to which it was designed to be operated.

6. Mr. Miles testified that he considered all three approaches, and predominately applied the market approach to the majority of the equipment. Although he also considered the cost approach for each item, he applied the market approach when there was enough data. He explained the different principles used in each approach. He testified that obsolescence factors must be considered to conclude a fair market value. He emphasized that the economic obsolescence factor has to indicate what the market would appear to react to, in order to reflect the market.

7. Mr. Miles testified that he found market value evidence for all but 15 of the items. The market approach is most reflective of what people will pay in the marketplace for an item.

8. Mr. Miles explained how he utilized the comparable sales to reach his conclusion of value. He testified that he obtains sales of like items, if possible, and makes adjustments for unique characteristics of the subject. Much of the information comes from dealers, appraisals he has done, public sales, etc. There are various sources of information available. The market analysis staff of his company is a separate department and they update the MB Data Base daily from sales and asking prices from throughout the country. Outside databases are also purchased, such as Green Guide and other books, as well as the Internet.

9. Mr. Miles testified that his firm does its own studies as well as has outside studies done to determine what typical lives are for equipment on a nonlinear basis. In office furniture and equipment, there is a tremendous amount of information available. There is a lot of sale information available for machinery and equipment as well. That information is then applied to the subject items based on their condition.

10. Mr. Miles explained how they correlate their information to arrive at their conclusion to value, which is fair market value. There is a certain percentage of difference in value. There can be a 25% difference for some types of equipment. Primarily, they take arm's-length transactions and make the appropriate adjustments to conclude a value most reflective of the actual value of the subject.

11. Regarding the cost approach, Mr. Miles testified that they obtain information from the manufacturers or dealers to obtain a replacement cost new to a user. Specifically, they were asking for the cost to replace the subject property new as of January 1, 2000, in Denver, Colorado. Next, they determine the physical depreciation factor via three methods: Age/life - determine effective age versus chronological life; 0-100% - how much percentage of life is left before the item needs overhauled, but never below the core value; and Direct dollar - the difference between curable and incurable depreciation, the hardest of the three methods.

12. Mr. Miles testified that you then determine the obsolescence factors. First is functional obsolescence. If there is no difference to operate the subject as compared to a new item, then there is no functional obsolescence. Functional obsolescence reflects a technological difference. Most of that information comes from the manufacturers and users.

13. The final obsolescence factor is economic obsolescence, which is the market itself. Economic obsolescence is market driven.

14. Mr. Miles testified that the data sources they utilized for either the market or cost approach included the sources listed on page 17 of his report. Their database is like a library and is made available to the machinery and equipment community of appraisers.

15. Under cross-examination, Mr. Miles testified that he is an accredited appraiser. He has probably done a hundred appraisals in Colorado; most of them were similar to the type of business operated by Petitioner. He is not familiar with the Division of Property Taxation manual. He did his physical inspection last week. The asset listing in the report is based solely on his inspection.

16. Under cross-examination, Mr. Miles testified that they start with their inspection. Then they look to see what was added or deleted as of the assessment date. They also look for any omitted items. Trying to balance to an asset list is not realistically possible. When they were on site, they asked if the property was there on January 1, 2000. They asked if anything had been replaced since then. He assumed the information given to him was correct. There may be items that are on a depreciation schedule that are no longer physically there. It is common to have more property via their inspection than on the corporations' inventory listing.

17. Mr. Miles testified that they used comparables as of late 1999 and 2000. For this appraisal, all the information they have is as of January 1, 2000. He considered the date of the sale, sales price, condition and age of the sold property, and the location of the sale. They also considered special terms, such as warranties, guarantees, special consideration on balloon payments, etc. They ask for information on cash sales. This information is part of their database, which includes hundreds of thousands of items. All the sales are confirmed as best they can. The majority of the items have lots of sales, so there is enough information to determine a reasonable value.

18. Under the market approach, Mr. Miles testified that they did not add taxes or installation costs to the values. By default, the values do have shipping, as the values were as of January 2000, in Denver, Colorado. The tax is transactional; it does not add value to the equipment. They were transactions as of January 2000.

19. Regarding the cost approach, Mr. Miles testified that the "not in use" statement in his report is an observation from when they were on site; it does not mean it was not in use on January 1, 2000. It is valued as though it were in use at the time. They asked about the condition on January 1, 2000, of each piece of major equipment, which is 20 percent of the assets.

20. In redirect, Mr. Miles clarified that his staff members were on site from April 17-19, 2001. He also testified that market evidence does not support the addition of installation costs.

21. Upon questioning from the Board, Mr. Miles testified that the sales they used from their database have the dates of the actual transactions listed. Older sale dates are verified to have not changed in price as of January 1, 2000. The 15 items valued by the cost approach are the major equipment items, including sophisticated computer controlled equipment. In the cost approach, they did not deduct for standard warranties and guaranties in the replacement cost new calculation. For depreciation, they used life studies based on economic lives, not linear deductions. In the marketplace, the incentive to purchase is an economic obsolescence factor, which is fairly constant. It must be established from market sales after physical and functional obsolescence has been deducted. The market does not usually reflect straight-line depreciation; sometimes it is an upward or downward trend, which is determined by analysis.

22. Mr. Miles testified that the transactions in the MB Data Base are coded, which would reveal if there were any liquidator type transactions. He explained the various types of coding used to describe the transactions. They used several sources, besides the MB Data Base. They utilized asking and used prices paid, or new asking prices paid for purposes of the cost approach. There was only one case where some liquidation prices were considered, which was Item No. 1605. There were 4 sales ranging from $22,500.00 to $37,000.00, but the value was considered to be $60,000.00 in a standard market. They consider all auction sales to be compelled; those prices are adjusted for the type of sale.

23. Regarding installation and tax costs, Mr. Miles testified that the replacement cost new would have differing percentages applied for different types of equipment to incorporate installation costs. The overall plant installation costs would be 10-15%. However, the market does not transact on installed costs.

24. In redirect, Mr. Miles clarified that he made upward adjustments to arrive at the actual value for Item 1605 to account for the liquidation sales. Regarding installation costs, he pointed out that they did not deduct for de-installation costs either. They were only determining the value to the marketplace.

25. Petitioner is requesting a 2000 actual value of $3,298,198.00 for the subject property.

26. Respondent's witness, Mr. David Luse, a Personal Property Appraiser with the Adams County Assessor's Office, presented the following indicator of value:

Cost:	$4,584,960.00

27. Mr. Luse testified that he prepared Exhibit 1. It is his appraisal report. He requested but did not receive documentation from Petitioner until he got the Board of Assessment Appeals' Rule 11 information 2 weeks ago.

28. Mr. Luse testified that he valued the property based on the cost approach. He relied upon an itemized depreciation schedule that was filed with the 2000 Declaration Schedule. He reviewed the itemized schedule and applied the appropriate mandated factors according to the Division of Property Taxation manual. His value in his report is based solely on the declaration schedule he received for 2000.

29. Mr. Luse testified that he reviewed Petitioner's appraisal report, but he could only match 15 or 20 of the listed assets to the original listing.

30. Under cross-examination, Mr. Luse testified that he did not perform an independent fee appraisal. The original filing showed the year the property was acquired and the original cost.

31. Mr. Luse testified that Exhibit B is his worksheet for the subject property showing the category, year of acquisition, cost, factors, etc., used by him to compute a replacement cost new. Each category is multiplied by a cost factor that also considers the year acquired. All of the depreciation percentages in his report represent the percent good.

32. Mr. Luse testified that he prepared a cost approach for 2000. He considered the market and income approaches, but did not use them. He agreed that for a proper cost approach, the first step is to determine the replacement cost new as of January 1, 2000. Then you determine the physical depreciation as well as any functional depreciation. Next you calculate the economic depreciation.

33. Mr. Luse testified that he did not visit the subject property facility for year 2000, but he has done so previously. He did not independently arrive at a replacement cost new. He did not observe the condition or analyze each type of depreciation for each item. He believes the equipment is fairly standard for this type of industry. His original costs came from the submitted list, which did not identify whether the property was new or used, nor was it indicated whether freight costs or sales taxes were included. In some cases, but not all, he believes there were installation costs listed.

34. Mr. Luse testified that he could identify the acquisition year of the equipment from the reported depreciation schedule. He assumed the reported assets were in place at the facility as of January 1, 2000. He agreed that there is market information for the majority of the assets. His office does not have access to, or the extensive information needed to, determine a market approach valuation. They looked at other facilities and compared the values to see if they seemed appropriate with one another. They did not independently analyze or verify the Petitioner's submitted information. He agreed that if properly applied, the market approach gives the best indicator of value. He considered the income approach, but with their limited resources, he did not feel they would have gotten an accurate value. He read from the Division of Property Taxation manual, Volume 5, Section 3.21, which states that installation, sales/use tax, and freight to the point of use must be added to the acquisition price, if not included in the

transaction value. He also testified that the Property Tax Administrator's manuals are binding on assessors, per Huddleston v. Grand County Board of Equalization. The cost manual is mandated for use by all counties in the state. The cost method he used is uniformly applied to value all business personal property in Adams County. He admitted that they could deviate from the percent good tables in the manual if they do a physical inspection and determine that there is additional obsolescence.

35. Under redirect, Mr. Luse testified that the Personal Property Declaration Schedule was filed under penalty of perjury and was signed by Christine Spath, a representative of Stanley Aviation. The Petitioner provided him with the same itemized listing as in past years. He assumed what was filed was correct as of January 1, 2000; he had no reason to doubt the accuracy of the provided information. The declaration schedule indicates that original installed cost is what is to be reported, and he assumed Petitioner included those costs in their declaration schedule.

36. Under recross, Mr. Luse testified that the protest notice requires Petitioner to provide documentation to support the requested value, but no documentation was provided.

37. Upon questioning from the Board, Mr. Luse testified that they have an audit plan in place where they audit a certain percentage of businesses each year. Other than as a result of physical inspections, they add or delete property each year according to information supplied on the declaration form. Colorado is a self-reporting personal property State. He did not recall when he last inspected the property.

38. Respondent assigned an actual value of $4,584,960.00 to the subject property for tax year 2000.

39. After due diligence in attempting to render a decision in this matter, the Board determined that additional information was needed before a conclusion could be reached by the Board. Therefore, an additional hearing was conducted on August 1, 2001.

40. Petitioner's witness, Mr. Leslie Miles was asked a series of questions relating to clarification of his cost approach to value. Item 1709 had been listed incorrectly in his report as being valued according to the sales comparison approach, when it was in fact valued by the cost approach. Mr. Miles supplied a listing of the 15 items valued by him according to the cost approach, including the appraisal entry number, asset number, original installed cost, and purchase date. Mr. Miles also supplied detailed demonstration worksheets showing the calculations used to arrive at his opinion of value.

41. Mr. Miles testified as to his methodology for deriving his depreciation and obsolescence factors. He applies an economic factor to the equipment replacement cost new after deductions are made for physical depreciation and functional obsolescence, to arrive at the market. The replacement cost new came from the manufacturer. The physical depreciation was arrived at using one of the three methods testified to at the last hearing. The economic obsolescence is measured using sales of similar equipment. He is the one that inspected all of the major equipment in the plant. The effective age was based on his inspection of the physical deterioration of the property. The functional obsolescence is a measurement of the excess

operating expense, if any, due to changes in technology, etc. The information usually comes from the manufacturer and is usually confirmed with the user.

42. Mr. Miles testified that one of the differences between his cost approach and Respondent's cost approach is that his depreciation and obsolescence factors are taken according to specific property, while Respondent's percent good tables are more suited for mass appraisal. Another difference is that he is using replacement cost new of the equipment if purchased as of the assessment date versus the assessor's use of the original cost and reproduction indexing. The tables get skewed the longer time has gone by, which would cause valuation differences in older equipment.

43. Petitioner's requested value for these 15 items was $1,195,800.00, according to the cost approach values listed in the appraisal report.

44. Respondent's witness, Mr. David Luse, clarified which column on his exhibit represented the actual value for the 15 items in question, via the cost approach. He reiterated that he had not done a physical inspection of the property.

45. Respondent supplied a cost approach value for those 15 items using the Division of Property Taxation (DPT) personal property valuation guidelines as found in Assessors Reference Library (ARL) Volume 5. The total actual value of the 15 items via this approach was $1,447,727.53.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000. Petitioner's witness, Mr. Miles, presented a well-organized appraisal report with a detailed personal property listing.

2. For this case, the assessment date is January 1, 2000, and the property listing should include all personal property that was in place as of that date.

3. Respondent relied on reported information from Petitioner and rightfully expected the supplied information to be accurate. Respondent assumed the information given on the form included installation costs, as required on the form, as well as a complete listing of acquired and disposed assets; testimony indicated that the declaration form was completed by a Petitioner representative under penalty of perjury. However, testimony indicated that Petitioner's submitted declaration listing consisted only of depreciable assets; any expensed assets were not reported, as required. In addition, Respondent's witness did not conduct a physical inspection of the property, so could not testify as to whether the information he relied upon was, in fact, accurate. The Board finds that Petitioner's asset listing as presented at this hearing is more complete than the information previously supplied to Respondent.

4. Although Petitioner's inspection was not conducted until April of 2001, Mr. Miles's testimony was that the inventory listing was correlated to January 1, 2000, by identifying any equipment that was purchased or disposed of after the assessment date. The Board was convinced that Mr. Miles' asset listing accurately reflected what items were in place as of the assessment date.

5. Colorado law requires the consideration of all three approaches to value for the establishment of actual value. Both parties testified that they considered all three approaches to value, and both parties agreed that the income approach would not be the best indicator of value for the subject property. Mr. Miles documented which valuation approach was used for valuing each item in his report. He gave the most weight to the market approach for the majority of the items, with 15 items valued according to the cost approach. Respondent's witness, Mr. Luse, chose to rely solely on the cost approach, testifying that there was an insufficient amount of data available to determine an accurate market approach. The Board was most persuaded by Petitioner's market approach for those items valued by Mr. Miles via that approach.

6. The Board finds that the market approach is an appropriate valuation method for personal property. Mr. Miles' valuation was effective as of January 1, 2000, using sales that occurred prior to the assessment date, and verifying whether such sales needed adjustments for time, location, condition, or other factors.

7. Although there was a lack of supporting materials for the derivation of the market value for each item in Mr. Miles' report, the Board was convinced by his extensive methodology testimony that sufficient information had been gathered and that the market approach had been properly applied. Mr. Miles testified as to the hundreds of thousands of items listed in his company's data base, and the Board was persuaded that supporting data for each and every item valued in his report would be so voluminous as to be impractical. The Board is confident that Mr. Miles' valuation estimate accurately reflects the subject property market value as of January 1, 2000, for those items valued via the market approach.

8. The Board accepts Petitioner's market value of $2,102,398.00 for those items valued according to the market approach.

9. Petitioner's witness chose to use the cost approach for 15 items that were lacking market information. Mr. Miles testified that only freight costs were included in his cost values. The Board believes that sales taxes, freight and installation costs should be included in the cost approach. The Board believes these costs would be part of a potential purchaser's consideration in this approach. In addition, the personal property declaration and the Division of Property Taxation ARL Volume 5 ask for costs including shipping, taxes, and installation.

10. The Board also found reference to installation costs for personal property in C.R.S. 39-1-103(13)(a) and (b). This statute deals with, among other things, the maximum value for personal property being set by the cost approach when "…all costs incurred in the acquisition and installation of such property are fully and completely disclosed…." It would seem clear that installation costs were meant to be included in the original cost of items valued according to the cost approach.

11. Mr. Miles testified that a general overall plant installation cost would be 10-15%. However, the Board believes that actual costs would be better used than attempting to adjust Mr. Miles' values to account for general installation and sales tax costs not included in his value.

12. The Board requested that Petitioner provide Respondent with a listing of original installed costs for the 15 items valued via the cost approach by Mr. Miles. The Board also requested Respondent to calculate a cost approach for these items using the Division of Property Taxation methodology as set forth in the Assessors Reference Library Volume 5. The Board accepted the resulting actual value for these 15 items as $1,447,727.00, rounded, based on the cost approach.

13. The Board concluded that the total 2000 actual value of the subject business personal property should be reduced to $3,550,125.00.

ORDER:

Respondent is ordered to reduce the 2000 actual value of the subject business personal property to $3,550,125.00.

The Adams County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 30th day of August, 2001.

BOARD OF ASSESSMENT APPEALS

J. Russell Shaw

J. Russell Shaw

Debra A. Baumbach

Debra A. Baumbach

Karen E. Hart

Karen E. Hart

This decision was put on the record

AUG 3 0 2001

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

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

Diane Von Dollen

Diane Von Dollen 37714.02