

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PALLAS PHOTO LAB, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Chelo F. Pallas Address: 388 Beale Street, #603 San Francisco, California 94105 Phone Number: (415) 974-1673 E-mail: Chelopallas@aol.com</p>	<p>Docket Numbers: 40933 & 40934</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 22, 2003, Rebecca Hawkins and Karen E. Hart presiding. Petitioner was represented by Ms. Chelo F. Pallas, Vice-President of Pallas Photo Lab, Inc. Respondent was represented by Maria Kayser, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Personal property formerly located at 700 Kalamath Street, Denver, Colorado
(Denver County Schedule No. 115857005)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 1999 and 2000. The subject property consists of personal property formerly located at 700 Kalamath Street in Denver, Colorado.

ISSUES:

Petitioner:

Petitioner contends that its personal property was overvalued due to functional obsolescence. The equipment has been impacted by digital technology and is not marketable. They tried to sell the equipment prior to their store closure; the property did not sell.

Respondent:

Respondent contends that they are required to value property according to statute. For the market approach, they must use sales of similar properties and independent information. The Division of Property Taxation (DPT) procedures only allow using auction sales when it is the only information available. They used a cost approach based on Petitioner's returned declarations. Pallas Photo Labs went out of business in 2001.

FINDINGS OF FACT:

1. Ms. Chelo F. Pallas, Vice President of Pallas Photo Labs, appeared as a witness via telephone and presented the appeal on behalf of Petitioner.
2. Ms. Pallas testified that, according to DPT guidelines, the assessor should consider additional obsolescence in personal property value calculations. Even if equipment is in storage, it could still have a zero value. The assessor should look at a liquidation value.
3. Ms. Pallas testified that she listed equipment on the personal property listing in 1999 and 2000 that they did not use. In 1993, they were audited by assessor personnel and were told that they had to continue reporting equipment whether it was in use or not.
4. Ms. Pallas testified that they auctioned some equipment in 2001, sold some equipment in-house, and abandoned the remaining equipment, as it was worth less than the cost to remove it from the building. She believes these sale proceeds are a fair representation of the true value of their equipment.
5. Petitioner's witness, Mr. Rusty Pallas, President of Pallas Photo Lab, Inc. testified that the digital revolution made their equipment obsolete. They could not give the equipment away. Even digital equipment sold at greatly reduced prices after six months to a year of use due to the fast changing technology. They sent a list of available equipment for sale to every lab in the country with little response.
6. Under cross-examination, Mr. Pallas testified that they went out of business in June of 2001. They sold equipment starting in 1998, which they removed from their property tax return when sold. They went into digital technology in 1995.

7. Upon questioning by the Board, Mr. Pallas testified that they stopped using much of the equipment, but were still declaring it to the assessor.

8. Under redirect, Mr. Pallas testified that the film processing business deteriorated due to digital cameras. Most labs will only buy digital equipment.

9. Petitioner is requesting a 1999 and 2000 actual value of \$40,784.00 for the subject property, based on their actual liquidation proceeds.

10. Respondent's witness, Mr. Ernesto Aldea, lead auditor in the Personal Property section of the Denver County Assessor's Office, presented indicated values of \$394,191.00 for the subject property for tax year 1999 and \$340,351.00 for tax year 2000.

11. Mr. Aldea testified that he has been involved with this account since the Board of County Commissioners (BOCC) petition was filed in 2001. The 2000 declaration was timely filed, reporting added and disposed of equipment and a total general ledger balance. The assessor did not include as taxable the software and real estate items listed on the declaration. The reported 2000 actual equipment cost of \$1,028,528.00 was used to calculate a depreciated cost value using the DPT manual, which resulted in a taxable actual value of \$340,351.00. They used the same procedure for 1999, with a total actual equipment cost of \$1,180,874.00 and a taxable actual value of \$394,191.00.

12. Mr. Aldea testified that they tried to apply the market approach to the subject equipment and requested additional information, but they could not match Petitioner's additional information with the already supplied general asset listings. Personal property business assets that are in storage and are no longer used to produce income are still taxable to the owner; they are to remain listed until they are disposed. They are following the DPT guidelines and personal property valuation tables. There is a depreciated floor value of 15%.

13. Mr. Aldea testified that the 2001 "garage sale" value reported by Petitioner was not a true market value and took place in 2001; they must value the subject properties as they existed in 1999 and 2000.

14. Respondent assigned an actual value of \$394,191.00 to the subject property for tax year 1999, and \$340,351.00 for tax year 2000.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax years 1999 and 2000.

2. The Board was convinced that the subject property was affected by economic obsolescence due to the technology changes that occurred in the photography industry during the last decade. Petitioner presented examples of photo labs that went out of business and a lack of buyers for obsolete equipment that did not employ digital technology. However, Petitioner did not present

specific information or valuation evidence for the subject property during the tax years in question.

3. Petitioner argued that some of its equipment had no value and was not disposed of due to prohibitive costs to remove the equipment from the building. However, Petitioner could not identify any specific equipment listed on Respondent's list.

4. Petitioner presented an auction list and receipts for the sale of equipment in 2001, which is one good indicator of its value for that year, but no information regarding the market value of their specific equipment during tax years 1999 and 2000 was presented. Without supporting independent market data regarding specific equipment listed on the assessor's records, the subject property cannot be reduced.

ORDER:

The petition is denied.

APPEAL:

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

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 19th day of September, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Karen E Hart

Karen E. Hart

This decision was put on the record

SEP 18 2003

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

Penny S. Lowenthal
Penny S. Lowenthal

