

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>SUBWAY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 55022</b></p>
<p><b>ORDER ON MOTION TO DISMISS</b></p>	

**THE BOARD OF ASSESSMENT APPEALS (BAA)** received Respondent’s Motion to Dismiss on July 8, 2011. No response was received from Petitioner.

Subject property is described as follows:

**440 Wadsworth Blvd., Lakewood, Colorado  
Jefferson County Schedule No. 991085**

Pursuant to the affidavit filed by Mr. Jerry Black and with no evidence presented to the contrary, the Boards finds that the Jefferson County Assessor mailed or delivered one copy of the personal property schedule to Petitioner’s place of business and Petitioner never returned this personal property schedule to the Jefferson County Assessor. Resp’t Ex. 1, ¶ 3 and 4, respectively. Thereafter, the Jefferson County Assessor valued Petitioner’s personal property for 2007 based upon the best information available (BIA), as permitted by statute. *Id.* at ¶ 5; *See generally* Section 39-5-116(1), C.R.S. The Board also finds that Petitioner did not protest the 2007 BIA valuation of its personal property. Resp’t Ex. 1, ¶ 7.

Respondent argues that this case is analogous to previous case law, where the holding was as follows:

When the taxpayer fails to return the information required by the personal property schedule, the assessor still must determine the value of the taxpayer’s property, as we have previously stated, using the best information available to him or her. If the taxpayer believes that the valuation has been made in error, it

must then file a protest in accordance with the statutory procedures set forth in section 39-5-122(2). **If the taxpayer neglects to avail itself of the procedure, the assessor's (BIA) valuation is presumed to be accurate and becomes the final valuation.** *Property Tax Administrator v. Production Geophysical Services, Inc.*, 860 P.2d 514, 519 (Colo. 1993) (emphasis added).

## **ORDER:**

The Board agrees with Respondent's application of *Production Geophysical* in this matter because the Board finds that a personal property schedule was provided to Petitioner, Petitioner never returned the personal property schedule to the Assessor, the Assessor valued Petitioner's personal property based on the BIA, and Petitioner did not protest the 2007 BIA valuation of its personal property. Accordingly, being bound by the BIA valuation, the Board grants Respondent's Motion to Dismiss.

## **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

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

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, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 16<sup>th</sup> day of July 2011.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*MaryKay Kelley*

MaryKay Kelley

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

*J. Michael Beery*

J. Michael Beery

