

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PRECAST CONCEPTS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 61095</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 11, 2013, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by Thomas E. Downey Jr., Esq. Respondent was represented by Nathan J. Lucero, Esq. Petitioner is protesting the 2012 actual value of the subject property.

Subject property is physically located at:

**9455 Boston Ct., Henderson, CO
Adams County Schedule No. P0023761**

The subject property consists of personal property used in the manufacturing of large concrete pipes and other products utilized in the construction industry. The operation includes a large concrete batch plant, equipment, machinery and computers.

Petitioner is requesting an actual value of \$4,408,072 for the subject property for tax year 2012. Respondent assigned a value of \$7,346,787 for the subject property for tax year 2012. Both parties agreed to the value of the personal property prior to any economic obsolescence of \$7,346,787.

Petitioner's witness, Mr. Stanton E. Wagner, Senior Managing Consultant with Paradigm Tax Group, testified that there is only one issue to consider with regard to the valuation of the subject personal property. Specifically, Mr. Wagner alleged that Respondent failed to recognize economic obsolescence in the valuation process.

Mr. Wagner testified that the subject property is primarily utilized in the manufacturing of large concrete water and sewer pipes used in the construction industry. Pursuant to Mr. Wagner's testimony, during the relevant time period, the manufacturing line has been down from its normal operation of three shifts to one shift per day. Mr. Wagner pointed out that the construction industry, as a whole, has been in decline with reduced demand in the market for manufacturing.

Mr. Wagner testified that he considered the subject's past income data in determining an appropriate adjustment addressing the economic obsolescence factor. According to Mr. Wagner, the income data indicated a steady drop in gross revenue during recent years, reflecting an economic obsolescence factor of 40%. In support of this adjustment, the witness also presented several published articles which reported economic decline in the construction industry as a whole.

Petitioner presented the following gross revenue streams in support of a $\pm 40\%$ adjustment.

Gross Revenues:

2006	\$26,312	($\pm 40\%$ higher than 2012 revenues)
2007	\$19,888	
2008	\$18,555	
2009	\$14,442	
2010	\$15,150	
2011	\$13,228	
2012	\$15,598	

Mr. Wagner compared the 2006 revenues to the 2012 revenue streams which indicated a 40% decrease in revenue. All of the following years (2007-2011) supported a downward trend ranging from 3% to 21%. Mr. Wagner concluded to a 40% adjustment and then applied it to the stipulated assigned value (\$7,346,787) for an actual value of \$4,408,072 for 2012.

Mr. Wagner testified that he followed the directions of the *Assessor's Reference Library: Personal Property Manual Guidelines* in determining economic obsolescence. As instructed by the *Guidelines*, he reviewed general economic trends as well as the actual income data. The witness contended that a loss in gross revenue could serve as a good measure for economic obsolescence.

Petitioner is requesting a 2012 actual value of \$4,408,072 for the subject personal property based on a 40% reduction adjustment for economic obsolescence.

Respondent's witness, Mr. Loren Morrow, with Adams County Personal Property Department, presented an indicated value of \$7,346,787 based on the cost approach. Mr. Morrow testified that there was insufficient data to develop any other approach to value the subject.

Respondent relied on the personal property declaration and a state-approved industry category table provided by the Department of Property Taxation in determining the appropriate category placement for the property. Each industry is assigned a reference number according to the type of industry. The subject was assigned a reference number of "10" due to its relation to a cement

operation. The property was acquired in 2004 and was assigned a replacement cost new factor of 1.33; a 10 year or 15 year economic life was applied to each of the itemized assets. After depreciation was applied based on the percent good tables, the replacement cost new less depreciation value was concluded. Each item was valued separately and placed on the personal property detail list.

Mr. Morrow agreed that the main discrepancy in between Petitioner's and Respondent's valuations stemmed from the issue of economic obsolescence attributed to the personal property. Mr. Morrow testified that in his opinion, based on the information available to him, he could not support an adjustment. Mr. Morrow stated that his task was to value the personal property component not the business value of the subject property. According to Mr. Morrow, many of the stated assets on the property declaration were reported by Petitioner as "equipment," with no explanation as to what type of equipment. In his opinion, most of the assets were generic, not specialized, and could be used in other industries.

Mr. Morrow testified that he followed the guidelines as set forth in the *Assessor's Reference Library: Personal Property Manual*. Pursuant to Section 4.4, "economic obsolescence must be measured in the marketplace either using the market approach or rent loss methods." Mr. Morrow contended that Petitioner did not provide any specific market data as to the loss in value by either of these two methods. In addition, Respondent's witness stated that most of the subject assets are not industry-specific and could be utilized in other industries; hence there is less diminished value to the assets. The witness also argued that the cost tables and depreciation tables supplied by the Department of Property Taxation already take into account some form of economic obsolescence in determining the cost analysis each year.

Respondent assigned an actual value of \$7,346,787 to the subject personal property for tax year 2012.

Petitioner presented sufficient probative evidence and testimony to show that the personal property was incorrectly valued for tax year 2012.

The Board was convinced that adequate data was presented supporting an adjustment for economic obsolescence. The Board concluded that Petitioner met the requirements under the *Assessor's Reference Library: Personal Property Manual* and interpretation of *Colorado & Utah Coal Co. v. Rorex*, 369 P.2d 796 (1962).

According to the *Assessor's Reference Library: Personal Property Manual*, Sections 3.12 & 3.13, "[e]conomic obsolescence is due to negative forces outside the property. . . The assessor must consider and document all elements of . . . economic obsolescence as of January 1 each year before placing a value on personal property." Further, the court ruled in *Colorado & Utah Coal Co. v. Rorex*, 369 P.2d 796 (1962) that if economic obsolescence exists, with or without a manual containing directions to take obsolescence into account, it must be acknowledged and deducted.

The subject's primary function is manufacturing of large pipes used in the construction industry and although some of the equipment may be used in other industries, any changes in the

construction industry as a whole would have an impact on the economic value of the subject’s assets. Additionally, there was no evidence presented that the subject property was used in manufacturing other items not related to the construction industry that would constitute other uses for the subject assets.

Respondent considered Petitioner’s claim of economic obsolescence but made no adjustment because Petitioner did not use an appropriate methodology in determining the loss. Respondent also believed Petitioner was assigning the loss to the business value and not the assets. Petitioner presented a summary of the gross revenues and net revenues, the loss was not capitalized and no market data was presented. Nevertheless, even though Petitioner did not follow the methodology for determining economic obsolescence as outlined in the *Assessor’s Reference Library*, the Board determined that the economic obsolescence should be accounted for.

In determining an appropriate adjustment based on the evidence presented, the Board reviewed the gross revenues. There was insufficient data contained in the income summary to warrant a 40% adjustment based only on 2006 top grossing year and a thorough income analysis was not performed. Therefore, to quantify a supportable adjustment for economic obsolescence, the Board reviewed the gross revenue streams for tax years 2006 through 2011. The Board calculated the percentage difference for each with comparison made to the 2012 revenue figure:

Gross Revenues:			
2006	\$26,312	40%	
2007	\$19,888	21.5%	
2008	\$18,555	15.9%	17.7% mean
2009	\$14,442	8.0%	
2010	\$15,150	2.9%	
2011	\$13,228	17.9%	
2012	\$15,598		

The figures indicated a steady decrease in gross revenues and a slight improvement for 2012. In determining an appropriate adjustment accounting for economic obsolescence, the Board concluded to a mean of 17.7%. This takes into consideration all the years as opposed to Petitioner’s calculation relying only on the 2006 gross revenue comparing the difference to the 2012 figures. The Board applied a 17.7% adjustment to the \$7,346,787 accounting for economic obsolescence for a concluded value of \$6,046,405 for tax year 2012.

ORDER:

Respondent is ordered to reduce the 2012 actual value of the subject personal property to \$6,046,405.

The Adams County Assessor’s Office is ordered to change his/her records accordingly.

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 of the respondent county, 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).

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 within thirty days of such decision 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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.


DATED and MAILED this 22nd day of April, 2013.



BOARD OF ASSESSMENT APPEALS

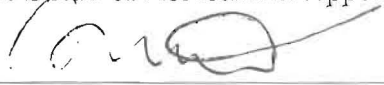


James R. Meurer



Debra A. Baumbach

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



Milla Crichton