

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>KRAGE ENTERPRISES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>PUEBLO COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket Nos.: 61941 and 61969</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 29, 2013, Gregg Near and MaryKay Kelley presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Cynthia Mitchell, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2010 and 2011.

The parties consolidated dockets 61941 (tax year 2010) and 61969 (tax year 2011) for purposes of the hearing.

Subject property is described as follows:

**1 Eaton Way, Pueblo, Colorado
Pueblo County Schedule Nos.
(2010) 04-260-05-014 and 04-260-05-015
(2011) 04-260-05-028 (consolidation of the above)**

The subject property is a light industrial manufacturing building built in 1993 on 7.66 acres. The building consists of 29,160 square feet on the main floor, including office space, and a 1,360 square foot mezzanine.

Respondent assigned actual values of \$1,059,708 (2010) and \$1,016,604 (2011). Petitioner is requesting a value of \$600,000 for each of the tax years.

Petitioner presented the following indicators of value:

	<u>2010</u>	<u>2011</u>
Market	\$481,000	\$423,000
Cost	\$466,000	\$511,000
Income	\$460,000	\$427,000

Petitioner's witness, Mike Shafer, Property Tax Consultant, testified that the subject building carried physical obsolescence reflecting its age, external obsolescence due to its isolated location near the airport, and economic obsolescence due to a depressed economy and real estate market.

Mr. Shafer presented a market approach with five comparable sales for tax year 2010 and six for tax year 2011. Adjustments were made for time, age, quality, size and acreage. Mr. Shafer acknowledged the following omissions and errors; the mezzanine was not included in square footage, sizes for Sales One and Two were incorrect, age adjustments were inconsistent, and location adjustments were not made despite his contention that the airport location was inferior. Mr. Shafer relied on Sale One, which carried the fewest adjustments, concluding to an adjusted price of \$481,000.

Mr. Shafer based his cost approach on low-cost shell data, acknowledging that the wrong year was entered and that the following were omitted or inapplicable; the mezzanine, height adjustments, multipliers, the sprinkler system, and the breakdown of depreciation. He placed little weight on this approach.

Mr. Shafer's income approaches were based on rental rates of market listings with adjustments he could not define and with omissions (building sizes, acreage, quality and miscellaneous differences). He acknowledged that some of the leases were for considerably larger buildings and that one involved several buildings with multiple leases. He applied unsupported vacancy rates of 30% (for 2010) and 35% (for 2011), unsupported expenses of 15%, and capitalization rates of 13.20%, which he acknowledged should have been 12.70%.

Petitioner based requested values on Respondent's re-calculation of Mr. Shafer's cost approaches with new value indications of \$665,299 and \$631,841. These approaches corrected Petitioner's errors and applied Marshall Valuation replacement cost data.

Respondent presented the following indicators of value:

	<u>2010</u>	<u>2011</u>
Market	\$1,070,856	\$1,070,856
Cost	\$1,061,827	\$1,016,604
Income	N/A	N/A

Respondent's witness, Sara J. VanGalder, Certified Residential Appraiser, described the subject as an industrial building, not a shell as reported by Petitioner, and located in the airport industrial park. She saw no evidence that commercial values had declined in the two base periods, rather noting stability since 1996.

Ms. VanGalder presented a market approach with three comparable sales for each base year. She valued the building independently, adjusting for occupancy, construction class and quality, age, wall height, and heat, thereafter adding the subject's assigned land value to the adjusted values for each of the comparable sales. Sale Three was given most weight (\$1,032,556 plus subject's assigned land value of \$38,300 totaling \$1,070,856).

Ms. VanGalder applied Marshall Valuation Service light industrial cost data to derive a value by the cost approach. She included mezzanine space, 13% office space, space heaters, utilities and sprinkler system, multipliers and depreciated at 26%. This approach was given most weight.

Ms. VanGalder declined to develop an income approach because lease data is unavailable in the Pueblo market. Most leased buildings involve the Pueblo Economic Development Corporation (PEDCO) with a variety of incentives and are not considered arm's length transactions.

Petitioner presented sufficient probative evidence and testimony to prove that the valuations for tax years 2010 and 2011 were incorrect.

The Board has little confidence in Petitioner's approaches to value: numerous errors and omissions occur throughout; adjustments in the market approach are inconsistent and unsupported; rental, vacancy and expense rates in the income approach are unsupported; and application of cost data for a building shell is not as persuasive as that for a light industrial building that includes all components.

The Board finds that the cost approach provides the best indication of value for the subject property due to lack of arm's length market transactions and supportable rental rates. It places most weight on Respondent's cost approaches; Marshall Valuation Service tables specifically address light industrial buildings that include all components.

The Board finds that the building's office space encompasses a lesser percentage than the 30% allowable per Marshall Valuation Service light industrial cost, which was used by Respondent's witness. The difference between the two cost approaches relating to office finish is \$15 rounded, half of which the Board has subtracted from Respondent's approach. This calculates to a base cost of \$30.42 and a value conclusion of \$882,079 for tax year 2010.

The Board notes that the cost of concrete and asphalt increased by \$19,480 from tax years 2009/2010 to tax year 2011. Respondent did not provide testimony regarding expansion or support from Marshall Valuation Service for such a substantial increase. The Board finds that half the increase (\$9,740) used by Respondent is defensible. In addition, Respondent's 2011 cost approach omitted the mezzanine. Recalculation of Respondent's cost approach for tax year 2011 concludes to \$852,200.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on the reduction of subject's value to \$882,079 for the 2010 tax year and to \$852,200 for the 2011 tax year.

The Pueblo County Assessor is directed 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 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.

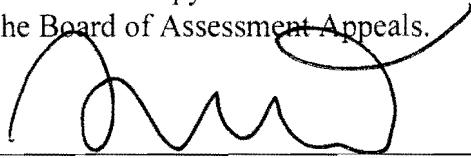
DATED and MAILED this 20th day of August, 2013.

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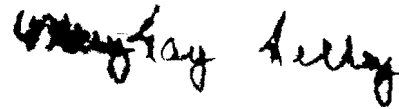


Gregg Near

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



Milla Lishchuk



MaryKay Kelley

