

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 75357

Petitioner:

LECTRA PRODUCTS CO. INC.,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 9, 2019, Debra A. Baumbach and Samuel M. Forsyth presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Rachel Bender, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2016.

EXHIBITS AND WITNESSES

Petitioner's Exhibits 1- 14, 19 and 20 were admitted into evidence. Respondent's Exhibits A and B were admitted into evidence. Mr. Joel Cuthbert was admitted as Respondent's expert.

PROPERTY DESCRIPTION

**6355 Joyce Dr.
Arvada, CO 80403
Jefferson County Schedule No.: 300136984**

The subject property is a flex commercial property. The property consists of 8,477 square feet of light industrial finish (47% of total square footage) and 9,520 square feet of office finish (53% of total square footage), totaling 17,997 square feet. Original year of construction is 1982 with an effective year built of 1995. Construction is Twin T. Condition is average.

PETITIONER'S PRESENTATION

Petitioner's witness, Mr. Wray Hansen, is part owner of the subject property. Mr. Hansen provided information about the construction, condition and use of the subject property. He also testified regarding the location of the Farmer's Highland Canal and the impact of the canal on the use of the property. Mr. Hansen confirmed the subject property's 2014 sale price of \$1,400,000. The witness also acknowledged that since the purchase of the subject, he spent approximately \$700,000 on improvements.

RESPONDENT'S PRESENTATION

Respondent's witness, Mr. Joel Cuthbert, Certified General Appraiser with the Jefferson County Assessor's Office, presented an "Expert Report" (Exhibit A) and an unsigned "Rebuttal Report" (Exhibit B). The letter of engagement of the "Expert Report" stated that "(it) is intended only to summarize the subject property information and affirm that the Jefferson County Commissioner's value of one million one hundred ninety-one thousand four hundred (\$1,191,400) is supported by the base period purchase price of one million four hundred thousand dollars (\$1,400,000) with a contract date of June 25th, 2014." Respondent's "Expert Report" provided photographs of the interior and exterior of the subject property and a copy of the sales contract of the subject property. The "Rebuttal Report", Exhibit B, re-constructed the cost approach presented by Petitioner.

BURDEN OF PROOF

In a proceeding before the Board, the taxpayer has the burden of proof to establish, by a preponderance of evidence, that the assessor's valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Preponderance of the evidence refers to the evidence that is most convincing and satisfying in the controversy between the parties. *Batterberry v. Douglas Cty. Bd. of Equalization*, 16CA1490 (Colo. App. 2017). The evaluation of the credibility of the witnesses and of the weight, probative value, and sufficiency of the evidence is solely within the fact-finding province of the BAA. *Bradford v. Chaffee Cty. Bd. of Equalization*, 12CA0927 (Colo. App. 2013).

THE BOARD'S FINDINGS

Petitioner provided no expert testimony and no appraisal. The only testimony provided by Petitioner was fact-based testimony by Mr. Wray Hansen regarding the subject improvements. Petitioner's exhibits that provided any hint of valuation did not benefit from associated testimony by Mr. Hansen.

Respondent provided neither expert testimony nor exhibits including mass appraisal or site specific appraisal which supported a value based on any of the accepted approaches to value. The Board believes that the title of Respondent's Exhibit A, "Expert Report," is a mischaracterization. According to Merriam-Webster's Collegiate Dictionary, Eleventh Edition, an expert is defined as: *one with skill or knowledge representing mastery of a particular subject*. There is no expertise in merely providing photos of the subject property and a copy of a sales contract.

The Division of Property Taxation provides an entire chapter regarding the confirmation of sales in the Assessor's Reference Library, Volume 3 (Real Property Valuation Manual), Chapter 3. "A sales confirmation program that is an ongoing, well organized process is the most vital element in the collection of accurate sales comparison data for the appraisal of all property. Reliable sales data are necessary **to effectively apply all three approaches to value and to value and to develop a quality assessment-ratio analysis program.**" ARL, Vol. 3 at page 3.1. (Emphasis added). Further, "[t]he reliability of any valuation model or sales ratio study depends on the quantity and quality of its data. The findings of a sales analysis can only be as accurate as the data used in the analysis. Therefore, sales data must be collected, and adjusted to obtain valid indicators of market value." ARL, Vol. 3, at page 3.6. Respondent did not provide any such evidence of compliance with the standards of the ARL. Utilizing a sale of the subject to establish its value, without more, is not in line with any appropriate appraisal methodologies.

Because the Board finds that Petitioner did not meet its burden of proof to establish that the challenged valuation is incorrect, the Board will not address Respondent's total lack of preparation and adequate presentation of evidence or testimony for this hearing.

ORDER

The petition is denied.

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-nine 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-nine 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.

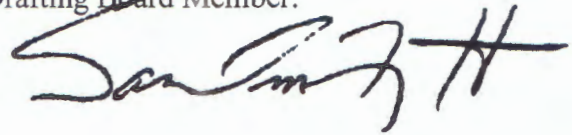
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

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

DATED and MAILED this 22nd day of October, 2019.

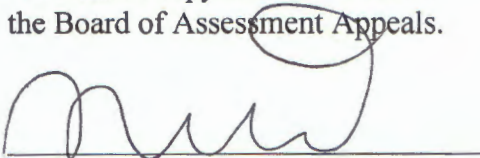
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Samuel Forsyth

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



Milla Lishchuk

Concurring Board Member:



Debra A. Baumbach,
*concurring without modification pursuant to
Section 39-2-127(2), C.R.S.*

