

**BOARD OF ASSESSMENT APPEALS
STATE OF COLORADO
Docket Number 36992**

ORDER

HOME DEPOT USA, INC,

Petitioner,

vs.

DOUGLAS COUNTY BOARD OF COMMISSIONERS,

Respondent.

THIS MATTER was heard by the Board of Assessment Appeals on October 13, 2000, Harry J. Fuller, Mark R. Linné, and Karen E. Hart presiding. Petitioner was represented by Mark E. Chadwick, Esq. Respondent was represented by Steven J. Dawes, Esq. and Kathleen M. Kelly, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**PERSONAL PROPERTY
(Douglas County Schedule 401604-25719)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 1997, 1998, and 1999. The subject property consists of personal property for the Home Depot store located at 8477 South Yosemite Street in Lone Tree, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the pneumatic and sensormatic systems, the kitchen and bath displays, and the signs should be classified as either fixtures or real property and not personal property. A second contention is that the personal property is valued according to the cost approach, and the resulting values do

not reflect fair market value. Additionally, some assets were reported to Respondent that Petitioner now believes did not exist at the store (considered ghost assets) or were non personal property items.

Respondent:

Respondent contends that the assigned values were either the same as, or lower in value than, the values reported by Petitioner. The county did not consider the income approach, but did consider the cost and market approach. Petitioner's appraisals are for the same value for each year and are not a market approach. The disputed items are personal property and not fixtures or real property.

FINDINGS OF FACT:

1. Based on the market approach, Petitioner's witness, Mr. John Fox, of Fox and Associates, presented an indicated value of \$524,343.00 for the subject property.

2. Mr. Fox testified that he has performed at least 4,000 personal property appraisals in three states. He has read Colorado statutes regarding personal property and followed those procedures in his appraisal.

3. Mr. Fox testified that he was hired by Mr. Bill Campbell, of Home Depot, to review the company's personal property listings. Mr. Campbell supplied a list of assets and Mr. Fox noticed that there was a problem regarding obsolescence in the computer area, and in the condition of the equipment. After the contract was approved, he requested asset ledgers on a per store basis. Upon review, he did an initial sort of the data and categorized certain types of property within the stores. He also noticed certain items that should not have been included as personal property.

4. Mr. Fox testified that he is familiar with Home Depot's asset listing procedures and proceeded to describe the various portions of Petitioner's Exhibit A. He received an asset listing from Home Depot, compiled the data by subcategory, and performed an appraisal report. The effective date of value is December 31, 1998.

5. Mr. Fox testified that he did a personal inspection of the property. He spent approximately 8 hours walking aisles and counting individual assets. He categorized that information into the report by type: security, office, telephone, computer, store equipment, etc. Once the inventory was complete, he costed the items out using various sources of information in his reference library. These included blue books, web sites, and personal files.

6. Regarding the web site listings, Mr. Fox testified that they are a stated, actual "for sale" value and he considers them to be the highest value for an item. He also obtained an affidavit from a Home Depot manager regarding actual sales transactions of used pallet racking.

7. Mr. Fox testified that he used blue book “retail used price” for individual items such as computers, computer related equipment, and electronic equipment. The blue book is the standard within the industry for personal property value estimates and is used extensively by appraisers and others in the industry. They are based on actual market transactions. However, he used even higher values to determine an “in-use” value. The Division of Property Taxation (DPT) guidelines state that sources of this type can be used to determine fair market value.

8. Mr. Fox testified that for the racking values, he used web sites “offers.” These “offers” indicated the racking value was approximately 25% of the retail new value.

9. Once the inventory was completed, he then looked in detail at Home Depot’s asset ledger. Mr. Fox testified that certain items appeared to be non personal property in nature. He cited as an example the exterior signs on the face of the building and on a sign post. In both cases, the plastic faces, which are no more than 25% of the original cost of the sign post, can be removed. In determining whether the signs should be classified as real or personal property, he considered the method of attachment of the signs and the likelihood of any remaining value once removed. The sign faces are carefully installed but then degrade from ultraviolet exposure. When you try to remove them, the structural integrity is compromised. He feels the sign faces would be scrapped rather than reused, as the costs would be prohibitive. Another company could use the sign structure, just not the face. The pole sign is attached to and erected upon the land. He believes the building signs are real property.

10. Mr. Fox testified that, in his opinion, the kitchen and bath displays located within the store are not personal property. They are erected upon or affixed to the land. The construction process is the placement of wood stud walls that are attached to the concrete slab floor. The attached cabinets and plumbing fixtures are installed but not functioning, so they do not meet the definition of fixtures. When other stores have remodeled, these displays have had a minimal salvage value and have been scrapped.

11. Home Depot’s asset listing shows the lumber used for these displays as a building expense. Some of the lumber was also utilized for dividing walls, such as between a merchandise area and the design center. The walls are wood studded with dry-wall facing and are part of the building. They look and feel like a wall.

12. Mr. Fox explained Home Depot’s subcategory listings under the Building Category. “Other Installation” is other construction costs for the setup of the store. “Phone Wiring” is wiring buried within the walls or the concrete slab. The “Lumber and Hardware” subcategory is actually racking, which is also included in his personal property listing, as is the “Shop and Warehouse” subcategory. After removing the value for these two subcategories and adding in the value of the “Kitchen and Bath” category, the adjusted total building cost value should be \$458,426.00.

13. Mr. Fox testified that the "Pneumatic" subcategory is the cash vehicle for moving money from the cashiers to the accounting office. He counted the safe as personal property, but did not count the pneumatic tubing. The tubing is attached to the back wall of the building, flows across the ceiling along a beam set by the cashier, and is attached to the post. Home Depot explained to him that once the system is removed, it has no use to them at any future location, so it is typically scrapped. He considers it to be a fixture as it is attached to the building.

14. Mr. Fox testified that the "Sensormatic" subcategory is a security system. It is located in the front of the building and is built into the floor. There is a black box on the front wall, but the detecting system is in the flooring. Visually, there is the entrance with a return desk, cashier stations, the contractors' entrance, and the garden center. The garden center is 200' to 300' from the main customer entrance. Each location has a detector. The system is engaged after hours. It could be used for other endeavors, such as a bowling alley. The system is not unique to Home Depot business operations, and he classified it as a fixture.

15. Mr. Fox testified that the building could be used for other purposes, and the pneumatic tubing system and the sensormatic security system could be used in other types of businesses. When this is the case, the DPT guidelines say that they would be part of the building.

16. Mr. Fox discussed the cost and market approach in his report. If he had no or incomplete data, he used the cost approach. He testified that he tried to utilize the market approach to the highest degree that he could, as he considered it to be the most accurate. There is a constant evolution of property, especially but not restricted to, the computer area. An example is a computer that was built in 1994 but was obsolete by the time it was installed in 1996.

17. There is a high incidence of wear and tear due to Home Depot's extended hours and the high volume business of the stores. Pallet racking can be stressed by too much weight on the racks. Home Depot is reconsidering the height of the racking due to hazards of falling merchandise. Some of the racking will be scrapped earlier than normal due to this issue.

18. There are three types of racking: pallet racks, cantilever (which is also pallet racks), and wire racks. He has a value of \$250,000.00 for racking in the report, as compared to the actual cost of \$534,731.00. The difference in values is the depreciation, etc.

19. He used materials attached in section 8 of Exhibit A to determine his racking values. His appraisal does not represent the wholesale price. He has included the labor cost to install and considers the value to be a value-in-use. He used around \$50.00 for support members versus \$35.00 to \$45.00 for similar racking as shown in the ads on page 128. He used \$25.00 for the beams, when they show a range of \$12.00 to \$28.00. He used the \$12.00 then added \$13.00 for a value-in-use. He believes his value could be overstated. It is a conservative value.

20. Mr. Fox concluded to a value of \$524,343.00 for personal property only. This does not include the items listed in the Building Category on page 77 of Exhibit A, as he believes those items are real property, not personal. The effective date of the report is December 30, 1998. He has used the same value for all three years, based on the actual inspection. Additions and deletions were made, but he feels the value is equivalent for each of the three years. The store opened in 1996, but most of the depreciation occurred within the first year. By 1997, most of the depreciation had taken place.

21. Mr. Fox testified that he has reviewed the Respondent's submitted materials. They compared cost figures of other companies to Home Depot, which is not done for a market analysis. This is just a comparison of the costs. Two of the stores have a huge food area including walk-in coolers, huge produce and bakery sections, a tire area, and limited racking as compared to Home Depot.

22. Mr. Fox would consider Home Base to be comparable, but an appraiser would never compare costs from different locations. Direct comparisons may be made for building structure, but an interior comparison is extremely difficult. Original cost figures from a different location of even a similar store is not of use without a detailed list of equipment. You would have to do an actual comparison and an allocation of a purchase price between actual types of equipment. You must go through the calculation of each piece of equipment and real property of Home Base to make a comparison.

23. Under cross-examination, Mr. Fox testified that he took the photos of the subject property on the date of inspection, which was two to three months prior to December of 1999. He believes the store is staffed 24 hours a day, but is open to the public from 5:30 a.m. to 11:00 p.m., 7 days a week. He reiterated that he inspected every piece of property in the store. His appraisal is entirely based on the assets that were present at the time of his inspection in 1999. He admitted that he does not have a complete list of what was in the store for 1996, 1997, or 1998, and that he has no personal knowledge from any inspection of what was in the store in those years. He felt that the items were probably the same ones that were there in earlier years, but might not be exactly the same. He did not include items that he knew had been replaced after the assessment date.

24. Mr. Fox testified that he relied on numerous blue books, but copies of them were not included in the exhibit as there are too many in number and size, and he did not wish to violate copyright law. He admitted that he did not identify either the books' names or the pages that he used from the books in the report.

25. Mr. Fox testified that the Home Depot racking is made by Interlake. The reference materials from Home Depot were used only as an example to show that the racking value is 10% to 15% of the original costs when resold to a refurbishing vender.

26. He was hired by Home Depot to value approximately 30 stores in Colorado, as well as other stores in other states such as Texas and Arizona. He used different valuation methods in different states.

27. Mr. Fox testified regarding the depreciation amounts for different condition categories of property as shown on page 20 of Exhibit A. A good classification has a depreciation range of 20% to 35%.

28. Mr. Fox testified that his definition of personal property as shown on page 14 of Exhibit A is not from Colorado statutes. However, it is a recognizable definition. Personal property is a chattel. He quoted from web site definitions of personal property and fixtures that he obtained in December of 1999 from the Colorado Real Estate web site. He assumed that the real estate manual definitions were correct. He reviewed several Colorado court cases but he did not make a specific conclusion regarding case law or being bound by DPT manuals.

29. Regarding used rack values, Mr. Fox testified that his total value conclusion was conservative. He used the raw racking material costs and added all costs needed to install the racks. The statement of value stated in his report is based on his experience as an expert in his field.

30. Mr. Fox testified that the records indicated that the subject property building was completed in early 1997. Certain items were installed starting in November 1996. The Home Depot asset listing complexity is such that it is not readily apparent what is personal property versus real property. His listing is much more accurate and was used for each store. Each store, though not identical, has basically the same property.

31. Upon questioning from the Board, Mr. Fox clarified that his Colorado personal property definition was obtained from the Colorado Division of Real Estate web page, real estate manual. He reviewed the DPT personal property manual definition and felt they were the same. The market data he used was from the Blue Book Winter Edition dated January 1, 1999 or the previous Fall Edition. He admitted that it appeared that some of the photos in Exhibit A may have been from a different store and were mistakenly placed in this exhibit, but the property listings were for the subject property.

32. Under redirect examination, Mr. Fox testified that he knew the items he identified in his report as real estate items had been submitted previously to the county as personal property.

33. Petitioner is requesting a 1997, 1998, and 1999 actual value of \$524,343.00 for each tax year for the subject property.

34. Based on the cost approach, Respondent's witness, Ms. Katrina Morland, a Registered Appraiser for the Douglas County Assessor's Office, presented the following indicated values for the subject property:

Tax Year 1997	\$1,308,195.00
Tax Year 1998	1,335,233.00
Tax Year 1999	1,244,994.00

35. Ms. Morland testified that she works in the personal property department. She has taken Division of Property Taxation courses, and has performed about 4,500 personal property appraisals. She discovers, lists and classifies personal property. She has rendered 10 to 15 personal property appraisal opinions based on the market approach. Ms. Morland was accepted by the Board as an expert in the field of personal property appraisal.

36. Regarding the photographs in Petitioner's Exhibit A, Ms. Morland testified that some of the photos are not of the subject property, including the photos of the exterior of the store, the computer room and the garden center. One of the photos shows an address of 1513, which is not a Home Depot store located anywhere within Douglas County. She has personally visited the subject property store 20 to 30 times.

37. She has submitted her own photographs of the subject property as Exhibit 2. She took these photos herself, and pointed out to the Board that the correct subject property address of 8477 was shown on the storefront in her photo.

38. Regarding tax year 1997, the assigned actual value was \$1,308,195.00. The assessor received a summarization of Home Depot's assets from AVTAX for tax year 1997. The items were categorized and the same depreciation was applied by both the assessor and the Petitioner, with both parties arriving at the same value. This was the first declaration filed by Home Depot. According to another appraiser's notes, the store opened in November of 1996.

39. Ms. Morland testified that she used the DPT manual depreciation tables to derive the value, as did Petitioner, for tax year 1997. She considered other approaches to value but, due to limited information, was not able to apply them. She is mandated by Colorado law to follow minimum standards regarding sales data. She could not acquire any of the needed information. Therefore, she considered the cost approach to be the most accurate for tax year 1997.

40. Regarding tax year 1998, the declaration was filed by Marvin Poer & Company. It was a more detailed list of assets than what was filed in 1997, but it was still difficult to account for the items as the descriptions were vague. Marvin Poer classified the items. They used the DPT manuals for classifications and value. Other approaches were considered, but the cost approach appeared to be the most accurate. There were general classifications, but the assessor's office was limited in applying the market approach as the items did not have individual descriptions. The 1998 Marvin Poer value was \$1,379,901.00, and the Douglas County assigned value was lower at \$1,335,233.00.

41. Regarding tax year 1999, the assessor received information similar to 1998. It was filed by the same company, Marvin Poer, and contained no greater detail. They used the cost approach and the DPT cost tables, as it was the best available information. The 1999 Marvin Poer value was \$1,398,081.00 and the Douglas County assigned value was lower at \$1,244,994.00. For each tax year, the county assessed the property at or below the value Petitioner had arrived at.

42. Regarding Mr. Fox's testimony that the assets are being subjected to an inordinate amount of wear and tear, Ms. Morland testified that she has been in the subject property on a number of occasions. She has photos of the racking in Exhibit 2. The store is very clean and is in good condition. She did not notice a lot of wear and tear.

43. Ms. Morland testified that other stores in the area use a similar type of racking. The Home Base and Costco racking is very similar to Home Depot's. The condition of the racking is the same. It has been in place for the same period of time. She did not notice damaged racking in use when she inspected Home Depot.

44. Ms. Morland testified that listings of retirements and transfers out were filed by Petitioner with the assessor. They show some racking that was retired or transferred out and that racking is no longer considered by Respondent in the valuation.

45. Regarding the pneumatic system at the comparable Home Base store, she has photos of the system in the checkout line, etc. It is comparable to the other stores and is classified the same throughout the county as personal property.

46. Regarding the sensormatic, she is aware of the same system in one other store. It is classified as personal property in the other store and throughout the county.

47. Ms. Morland testified that she has classified the sign as personal property. There is no pole sign at the subject property.

48. Regarding Mr. Fox's effective appraisal date as of December 31, 1998, Ms. Morland testified that the date is important as the market value is to be as of a certain date. The store presents itself differently on a year to year basis. She does not believe an appraisal date is valid when one does not know the inspection date. She believes that Mr. Fox stated in his appraisal that the value also encompassed information from several different years. There is always a shift in personal property, with items coming in and going out, items that are damaged, and new items that are put in place.

49. When reviewing Petitioner's declarations, Ms. Morland testified that she could identify items that were removed. There were different declared amounts for each year with original cost changes. She concludes that this supports the moving of equipment in and out.

50. Ms. Morland testified that she had contacted Home Depot, hoping to get a clarification of the equipment in 1998 and 1999. She wanted to make sure that everything was categorized correctly. The brief descriptions were not clear, but what she received was all she was able to get.

51. Ms. Morland testified that Mr. Fox's appraisal did not give her the level of detail she needed. There is no year for the equipment, which is important for the market approach in order to get a good comparable and apply the correct depreciation.

52. Ms. Morland testified that the first time she saw the list of Mr. Fox's reference material was after the abatement hearing. She tried to find some of the material he referenced. She was able to locate some material, but it was hard to clarify the year and name of the items. She could not verify Mr. Fox's information.

53. Regarding the asset tracking for Home Depot, she believes it indicates a year, life, and tracks the type of equipment. Specifically the pneumatic tube system is listed as a 7-year life, which is not consistent with real property. The same information exists for the sensormatic system and the sign. Home Depot assigned a 45-year life for the real estate. It looks to her like Home Depot is treating these disputed items as personal property.

54. Regarding the displays, Home Depot's records show each display with a 5-year life, which is consistent with a personal property life.

55. Ms. Morland testified that Douglas County treats all these items as personal property. She has consulted the International Association of Assessment Officers (IAAO) manual. It categorized what a trade fixture was. She concluded the disputed items were personal property.

56. Ms. Morland testified that the Marshall & Swift Valuation Service also treats a pneumatic and sensormatic system as personal property. She contacted Marshall & Swift regarding their cost descriptions, and these items are not included in their real property descriptions.

57. Under cross-examination, Ms. Morland testified that the Home Depot submissions were similar to or greater than the county value. She admitted that Home Depot is not bound by its internal classification system.

58. Ms. Morland admitted that she did not look at any market data before arriving at the value. She was not able to compare or do an analysis due to the way the information was submitted. The best information available was the asset list for the cost approach. She used only the cost approach for the subject property, as well as for the other three businesses' property. She has treated all three properties the same. She agrees she should consider market, but needs more available data to do so. She agrees that she can use used equipment guides to value the property, as shown in the DPT personal property manual. However, other things are pertinent. She admitted that she did not consider used equipment guides or other types of market data.

59. Ms. Morland testified that she used the IAAO manual as a clarification of personal property descriptions. She admitted that the manual does not specifically itemize the contended items in dispute and that it is a general guide. The Colorado valuation manual or statutes do not specifically refer to the disputed items, other than signs. Her Exhibit 1 section 9 is the DPT factor tables, and they show "signs (other)". She interprets that to be that all signs are personal property. She admitted that in the DPT manual, volume 5, there is no specific reference for signs. However, she feels the signs are removable and are a part of the business that will be removed.

60. Ms. Morland believes that the pneumatic and sensormatic systems contribute to the business and not to the building. She admitted that they can be used by another business. She is aware of DPT policy as noted on page 92 of Exhibit A, but also noted that other characteristics of personal property definitions must be considered. The pneumatic and sensormatic systems have a relatively short life and are removable. She would consider them to be personal property. The sensormatic system serves the business.

61. Upon questioning from the Board, Ms. Morland testified that she had done an audit of the property in 1999. It was a general audit and she did not do an item-by-item check of the equipment. She attempted to reconcile the results of the audit to Mr. Fox's lists, but due to a lack of year of manufacture for the equipment and the vague descriptions, she could not complete a comparison. She did not use any of the information from her audit to value the property, only the values that were remitted on the declaration forms.

62. Respondent assigned the following actual value to the subject property for each tax year:

Tax Year 1997	\$1,308,195.00
Tax Year 1998	1,335,233.00
Tax Year 1999	1,244,994.00

63. Respondent's witness, Mr. James R. (Bill) Hyde, a Senior Tax Consultant with the Division of Property Taxation, testified that he has taught numerous personal property courses for several organizations. Mr. Hyde was accepted by the Board as an expert witness in the field of personal property valuation.

64. Mr. Hyde testified that the actual inspection date is important. Colorado law requires that property be valued in its condition as of the assessment date, and then relay that value back to the June 30 level of value date.

65. Mr. Hyde testified that personal property in Colorado is defined in Colorado Revised Statutes 39-1-102 (11) as everything that is not real property.

66. Regarding the pneumatic system, Mr. Hyde testified that it is personal property because it is a fixture installed in real property for the business. The pneumatic system is definitely treated as personal property.

67. Regarding the sensormatic system, Mr. Hyde testified that in every case he is aware of, it is classified as personal property. It is a trade fixture related to the business and is personal property.

68. Regarding signs, Mr. Hyde testified that most are considered personal property. Some are real property, depending on the manner of attachment.

69. Regarding the display items, Mr. Hyde testified that in the Colorado definition of fixtures, there are six types of property that can be considered fixtures. Fixtures are integrated into the building. He believes these displays would be personal property, as they are not real property.

70. Mr. Hyde testified that the Division of Property Taxation's function is to provide assistance to assessors, the legislature, etc. He is a specialist for personal property. He tracks case law. Once a case has exhausted its appeals, the manuals are changed to reflect the changes according to the case law. He does not believe the definition of personal property used by Mr. Fox from the web site he referenced is consistent with the manuals published by the DPT. Case law says that assessors are bound by the DPT manuals when valuing property.

71. Regarding Mr. Fox's appraisal, he did not feel it would be used as a market approach as there are no sales of comparable property. As for looking at the blue book guides, it still is not a market approach as it does not consider the year of manufacture or the manufacturer.

72. Under cross-examination, Mr. Hyde testified that it is important to know the exact date that Mr. Fox inspected the property. It is important to know the condition of the property on the assessment date. He agreed that the date of inspection has nothing to do with the classification issue. He testified that in the DPT guidelines, "we teach that "site inspection is essential" to the process."

73. Mr. Hyde admitted that he had not inspected the subject property, but he is familiar with how sensormatic systems are attached in other stores. For the 1999 appraisal year, fixtures that serve both the business and the building are real property. The Del Mesa Farms court case is specific to a poultry operation. The Courts determined that if the fixture primarily serves the business, it is personal property. The ventilation system was primarily used for the poultry business. Mr. Fox's definition varies from the Colorado definition, which states that whatever is not real property or fixtures must be personal property.

74. Regarding the kitchen and bath displays, Mr. Hyde testified that he would not consider them to be real property. They are not a part of the building but are erected upon the floor. He has seen similar systems in another Home Depot store and the displays are primarily there to sell a product. In his opinion they are business related, which is important in determining whether they should be considered a fixture.

75. Upon questioning from the Board, Mr. Hyde testified that one of the criteria for personal property is that it has a shorter life than real property. The DPT interpretation of fixtures that serve both the business and the building, was developed by the DPT due to the 1999 Del Mesa Farms court case. The manuals were changed to reflect this definition interpretation effective for 2000 and subsequent years.

76. Under redirect, Mr. Hyde testified that the DPT procedures have stated for many years that the costs taken from guides must have added to them, the cost of installation, sales tax and freight.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that, for tax years 1997, 1998, and 1999, the valuation of the subject property was correct.

2. In Del Mesa Farms and BAA v. the BOE of Montrose County (97CA0686), the courts found that "...regardless of whether a particular item is affixed to a building and may otherwise constitute a fixture system, the item constitutes personal property if its use is primarily tied to a business operation."

3. As to the pneumatic and sensormatic systems, the Board is persuaded that these systems are primarily tied to the business operation of Petitioner and should therefore be considered personal property. Respondent's expert witness, Mr. Hyde, testified that these systems are trade fixtures related to the business and the Board agrees. Neither system is essential to the operation of the building. The Home Depot building could be operated without the disputed items.

4. The Board also concluded that the kitchen and bath displays should be considered personal property. The Board is convinced that the kitchen and bath displays are of a temporary nature that can, and probably will, be redesigned and relocated at times throughout the life of the building. Although testimony indicated that the displays were attached to the floor of the building, the Board does not consider that fact compelling enough to consider them to be a permanent part of the building or to meet the definition of a fixture. Mr. Fox testified that remodeling has already occurred in other Home Depot stores and that these displays are subsequently scrapped. Mr. Hyde testified that one of the considerations for personal property is the expected life of the property. The Board believes it is reasonable to assume that these displays are of a temporary nature and will have a considerably shorter life than that of the building itself.

5. As to the property signs, the Board agrees with witnesses from both parties that signs can be considered either personal or real property, depending on the method of attachment. Mr. Fox testified that the signs were permanently attached to the building. However, the Board recognizes that there is some confusion regarding the exact nature of the signs in this case. There was conflicting testimony and exhibits as to which signs were actually located on the property. The Board was most persuaded by Ms. Morland's testimony and evidence that the photographs of the signs depicted in Petitioner's exhibit were from a different property. The sign depicted in Ms. Morland's photograph appears to be readily removable. The Board finds insufficient evidence to order a change in classification from personal property.

6. Petitioner argued that the valuation assigned to the personal property, regardless of classification, was not correct. Petitioner argued that the cost approach used by Respondent did not reflect true market value and that the market approach used by Mr. Fox was the most accurate valuation for the subject property.

7. The assessment date is January 1 of each year, and the personal property listings should include all personal property that was in place as of that date. Mr. Fox testified that his inspection date of the property occurred in the final months of 1999. The Board considers Mr. Fox's inventory adequate for tax year 2000, but not for the tax years of 1997, 1998, and 1999, as considered in this case.

8. Testimony and evidence from both parties indicated that there were additions and deletions of personal property throughout the years. Mr. Fox testified that he felt the value would be equivalent for each year, even though there were additions and deletions. The Board recognizes that the changes in the personal property over the years may have resulted in similar values. However, there is no property listing with sufficient detail available for the assessment date of each year to verify that this is true for this case. The very nature of the valuation process would likely result in a varying valuation for each assessment date, especially when utilizing the cost approach.

9. The Board finds that the use of market value for personal property is an appropriate valuation method for personal property. However, without detailed year manufactured and manufacturer information, it is difficult to determine whether the market value given by Mr. Fox is correct. Mr. Fox testified that he added to the blue book retail value to account for the value-in-use, but there was a lack of descriptive and supporting documentation to identify what the specific adjustments were and how they were determined, with the exception of some of the racking values. Mr. Fox also testified that he used market value whenever possible, but reverted to cost when he had no or insufficient data. The Board finds insufficient detailed information to verify what property was valued according to which approach.

10. Neither can the Board rely upon Respondent's market approach presentation. Respondent's purported market approach was in actuality merely a comparison of costs among stores. This would only be effective in determining whether the personal property costs reported by Petitioner seemed reasonable. It is a cost comparison, not a market approach.

11. After careful consideration of all the evidence and testimony, the Board concluded that there was insufficient information to determine an accurate market value for the subject property for each of the years under appeal.

12. Petitioner also argued that some of the personal property originally reported to Respondent was in fact real property, or was not located at the property under appeal. The Board finds a lack of detailed information to support this argument. The original listings submitted to Respondent lacked manufacturer information, and original dates of manufacture, as well as specific property item descriptions. Mr. Fox's listing lacked a year of manufacture. Also, some detailed item descriptions and manufacturer information was missing. In addition, the Board has already determined his listing is not applicable to the tax years in question. Without such detail, the Board was unable to determine whether improperly classified property was in fact reported to Respondent.

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.

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 make the aforementioned recommendation or result of Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

DATED and MAILED this 7th day of November, 2000.

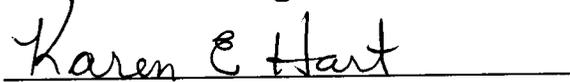
BOARD OF ASSESSMENT APPEALS



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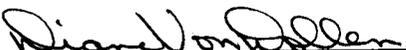


Karen E. Hart

This decision was put on the record

NOV 07 2000

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



Diane Von Dollen



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