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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FIRST BANK OF COLORADO CORP.,</p> <p>v .</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>▲</p> |
| <p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq Address: 3962 South Olive Street Denver, CO 80237-2038 Phone Number: (303) 759-0087 E-mail: Attorney Reg. No.: 6941</p> | <p>Docket Numbers: 37405-37408</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on February 1, 2001, J. Russell Shaw, Harry J. Fuller, and Karen E. Hart presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Lily Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

PERSONAL PROPERTY (Jefferson County Schedule Nos. 911326, Docket No. 37405; 910971, Docket No. 37406; 908374, Docket No. 37407; 917655, Docket No. 37408)

Petitioner is protesting the 2000 actual value of the subject properties: personal property located at 5125 South Kipling Parkway, 6701 South Wadsworth Boulevard, 1940 South Kipling Parkway, and 7590 West Colfax Avenue.

ISSUES:

Petitioner:

Petitioner contends that four items: the teller lines, the night depository box, the bank vault excluding the door, and the fire alarm system are real property and not personal property. These items are affixed to the building.

Respondent:

Respondent contends that the vault is already considered real property; only the doors are personal property. The other three items are treated as personal property for the subject properties, as they are for all bank properties in Jefferson County. Del Mesa Farms determined that, despite whether the property is affixed to the real estate, it is personal property if the use is primarily tied to a business operation.

FINDINGS OF FACT:

1. Docket Nos. 37405, 37406, 37407, and 37408 were consolidated for this hearing.
2. Petitioner's witness, Ms. Kasey A. Holtz, Vice President of Administration for Tax Profile Services, Inc., testified that she has taken appraisal courses but is not a licensed appraiser. She has been working with Petitioner's personnel for the last year regarding their personal property valuations and classifications.
3. Ms. Holtz testified that the teller lines and night deposit box were built into the building and should be real property. The fire alarms are required for operation of the bank due to code requirements and are built into the bank walls. The bank vault should be real property; only the vault door should be classified as personal property.
4. Ms. Holtz testified that the Marshall Valuation Service definition of a bank includes night depositories and vaults as part of the real property cost valuation. It does not include vault doors.
5. Under cross-examination, Ms. Holtz admitted that she has not taken any personal property valuation classes. She worked briefly with another bank four years ago regarding bank personal property. She has read the Del Mesa Farms case but still maintains these items are real property.
6. Upon questioning from the Board, Ms. Holtz testified that she distinguishes between burglar alarm systems and fire alarm systems due to the Marshall Valuation Service definitions of included items in its bank occupancy description.
7. Petitioner did not request a specific actual value for the subject properties. They are requesting a determination of classification of the four disputed items as personal property.

8. Respondent's witness, Ms. Lisa Creason, an Appraiser in the Personal Property Department of the Jefferson County Assessor's Office, testified that she has taken cost, market, income, and personal property classes. She reviews approximately 300 personal property accounts each year. She conducts audits of businesses. Ms. Creason was accepted as an expert in the field of personal property appraisal.

9. Ms. Creason pointed out that Petitioner classified the disputed items as personal property on the renditions submitted to the assessor. She clarified that the vault itself was classified as real property. The only portion listed as personal property was the vault door.

10. Ms. Creason testified that the disputed items are considered personal property in Jefferson County and are classified as such for all banks.

11. Ms. Creason testified that personal property is considered to be anything that can be removed from the property. All of the disputed items can be removed from the real property. The Division of Property Taxation, Assessors Reference Library (ARL), states that personal property is property that is primarily tied to the business. The disputed items are not currently being valued as part of the real property.

12. Under cross-examination, Ms. Creason testified that the real property is valued according to its use as a bank. All three approaches to value are used to value the real property.

13. Under questioning from the Board, Ms. Creason testified that the ARL does not specifically identify the disputed items as personal property. She has seen fire alarm systems and night depository boxes removed from the real property by subsequent owners in other properties. The teller counters have a long life.

14. Under redirect examination, Ms. Creason testified that she sees no distinction between security systems and fire alarms. Both are treated as personal property.

15. Respondent assigned the following actual values to the subject properties for tax year 2000:

| <u>Docket Number</u> | <u>Schedule Number</u> | <u>Actual Value</u> |
|----------------------|------------------------|---------------------|
| 37405 | 911326 | \$274,946.00 |
| 37406 | 910971 | \$152,830.00 |
| 37407 | 908374 | \$155,346.00 |
| 37408 | 917655 | \$324,100.00 |

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject properties were correctly valued for tax year 2000.

2. It is undisputed that vault doors should be valued as personal property. After careful consideration of all the evidence and testimony, the Board is persuaded that only the vault doors are being valued as personal property; the vaults themselves are valued as real property.

3. 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."

4. As to the night depository, teller lines, and fire alarm system, the Board is persuaded that these items are primarily tied to the business operation of Petitioner and should therefore be considered personal property. These items are trade fixtures related to the business. None of the items are essential to the operation of the buildings. The buildings could be operated without the disputed items.

5. Petitioner also pled that the Marshall Valuation manual included these items as part of the real property cost approach. Therefore, Petitioner claims they were double assessed by Respondent. The Board takes no jurisdiction over the real property values, as those are different properties that are not under appeal in these cases. The issue of double assessment would come into question primarily under the cost approach, and the Board does not know which valuation methodology was used to value the real property.

ORDER:

The petition is denied.

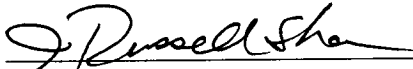
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

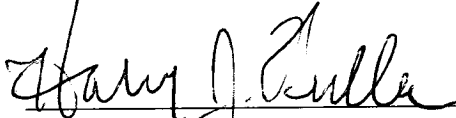
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 14th day of February, 2001.

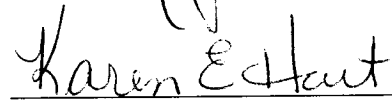
BOARD OF ASSESSMENT APPEALS



J. Russell Shaw



Harry J. Fuller




Karen E. Hart

This decision was put on the record

FEB 14 2001

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



Diane Von Dollen



37405-08.01