

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>MICROSEMI CORP. COLORADO,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BROOMFIELD COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 55596</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on November 30, 2010, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Tami Yellico, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007.

Dockets 51933 and 55596 were consolidated for purposes of the hearing.

Subject property is described as follows:

**800 Hoyt Street and 855 Compton Street, Broomfield, Colorado  
Broomfield County Schedule Nos. R1067574 & R1067575**

The subject (Schedule No. R1067574) is a 112,128-square foot manufacturing facility on 14.39 acres of land. The building was completed in 1975, with additions to the building in the 1980s. The subject includes an adjacent site (Schedule No. R1067575) of 5.670 acres that is bisected by a community ditch. A 3,640-square foot chemical storage building straddles the property line of the two parcels. Both properties suffer from environmental contamination.

Petitioner contends that the two properties should be valued as one operating unit. Petitioner is requesting a combined actual value of \$1,385,080.00 for the subject property for tax year 2007. Petitioner concludes to a value of \$1,372,010.00 for Schedule No. R1067574 and \$13,070.00 for Schedule No. R1067575.

Respondent contends that the properties should be valued separately. Respondent assigned a value of \$13,070.00 for Schedule No. R1067575, and \$3,900,000.00 to Schedule No. R1067574, both for tax year 2007.

Petitioner presented the following combined indicators of value:

Cost:	\$2,035,720.00
Market:	\$1,684,780.00
Income:	\$1,385,080.00

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$2,035,720.00. Petitioner's witness, Mr. Ronald Sandstrom of F&S Tax Consultants, provided no land sales, relying on Respondent's assigned land value of \$2.25 per square foot. Mr. Sandstrom concluded to a total unimpaired value of \$4,526,665.00. Petitioner adjusted the value for future remediation costs of \$2,490,945.00 to conclude to a value of \$2,035,720.00 under the cost approach. Petitioner's discounted remediation costs were revised based on a letter dated January 29, 2007 from Brian M. McGinnis, the Microsemi Consortium Project Manager, indicating total estimated costs of \$327,700.00 for 2007. These costs included \$254,500.00 for remediation through December 2007 with an estimated cost for Common Counsel of \$4,600.00 per month and reporting required by the Colorado Department of Public Health and Environmental (CDPHE) of \$4,500.00 per quarter.

Petitioner presented three comparable sales ranging in sale price from \$1,450,000.00 to \$3,600,000.00 and in size from 86,036 to 106,195 square feet. Petitioner made no adjustments, concluding to a value of \$37.25 per square foot for the subject or \$4,175,725.00 prior to adjustment for environmental costs. Petitioner applied the same deduction of \$2,490,945.00 for environmental costs to conclude to a value of \$1,684,780.00 using the market approach.

Petitioner presented an income approach to derive a value of \$1,385,080.00 for the subject property. Petitioner applied a rental rate of \$5.25 per square foot to the 112,100 square foot manufacturing and office building, and deducted vacancy of 7.5%. Mr. Sandstrom deducted remediation costs for 2007 of \$327,700.00 to reflect total costs for the two properties combined, based on Mr. McGinnis's letter. Mr. Sandstrom concluded to an overall capitalization rate of 12.50%, rounded, by taking the overall rate indicated by investor surveys of 7.20% and adding an additional 5.42%, equal to the risk rate used in discounting the environmental costs.

Petitioner contends that the two properties should be valued as one operating unit and that the parcel identified as Schedule No. R1067575 was incorrectly identified as vacant land. Petitioner testified that access to the rear parcel was limited and required access across the parcel that includes the manufacturing building. Petitioner testified that the chemical storage building should not be classified as a "minor structure" and contributes to the overall value. Petitioner contends that remediation costs should include the projected cost for Common Counsel as well as costs for CDPHE reporting.

Respondent presented the following indicator of value for Schedule No. R1067575:

Market: \$17,900.00

Respondent's witness, Mr. John Storb III of the City and County of Broomfield Assessor Division, presented five land sales to support a value of \$358,000 prior to adjustment for contamination. Mr. Storb applied a 95% downward adjustment for contamination issues to conclude to a value of \$17,900.00, rounded.

Respondent presented the following indicators of value for Schedule No. R1067574:

Cost: \$3,182,512.00  
Market: \$3,200,000.00  
Income: \$4,140,000.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$4,427,660.00, prior to adjustment for contamination. Mr. Storb deducted \$1,245,148.00 for remediation costs to conclude to a value of \$3,182,512.00 using the cost approach.

Respondent's witness presented three comparable sales ranging in sale price from \$3,600,000.00 to \$4,150,000.00 with indicated values of \$35.36 to \$42.78 per square foot. After adjustments were made, the sales ranged from \$41.37 to \$47.06 per square foot. Respondent concluded to a value of \$44.00 per square foot equal to \$4,935,000.00, rounded. Respondent deducted costs associated with contamination of \$1,715,148.00, to conclude to a value of \$3,200,000.00, rounded.

Respondent used the income approach to derive a value of \$4,140,000.00 for the subject property. Respondent applied a rental rate of \$5.50 per square foot to 112,100 total square feet. Deductions included vacancy of 8.0%, reserves for replacement of 3.0%, and expenses not itemized of 5.0%. Respondent applied remediation costs of \$254,500.00, adding the costs associated with CDPHE reporting of \$4,500.00 per quarter, for total remediation costs of \$272,500.00. Respondent deducted 70% of the costs associated with contamination, which equaled a deduction of \$190,750.00 as an expense. A capitalization rate of 8.0% was applied, indicating a value of \$4,140,000.00, rounded. Respondent placed the greatest reliance on the income approach to conclude to a value of \$4,000,000.00 for Schedule No. R1067574.

Respondent contends that remediation costs of \$254,500.00 plus reporting costs of CDPHE of \$4,500.00 are appropriate. Respondent contends that there is insufficient support for the inclusion of additional costs for Common Counsel of \$4,600.00 per month. Respondent cites the publication *Standard on the Valuation of Properties Affected by Environmental Contamination*, International Association of Assessing Officers, July 2001, pg. 12 in support.

Respondent assigned an actual value of \$13,070.00 to Schedule No. R1067575, and \$3,900,000.00 to Schedule No. R1067574, for a combined value of \$3,913,070.00 for tax year 2007.

The Board was convinced that the two properties operated as a single unit. The small chemical storage building straddles the line between the two parcels and is found by the Board to have contributory value. The parcel identified as R1067575 is currently accessed as part of the adjacent parcel and would not likely be sold as a free-standing property.

Based on these conclusions, the Board has recalculated the combined value of the properties, based on the income approach. Respondent presented sufficient probative evidence to support a rental rate of \$5.50 per square foot and vacancy of 8.0% for the subject. The Board applied the rental rate to a total square footage of 115,740, which includes the chemical storage building, resulting in effective gross income of \$636,570.00.

The Board agrees with Respondent's revised remediation costs of \$272,500.00. Respondent's costs are based on the revised remediation costs shown by Mr. McGinnis of \$254,500.00, plus costs associated with reporting to CDPHE of \$4,500.00 per quarter. The Board was not convinced that the legal costs, as shown in the McGinnis report, were actually associated with the cost to cure or that they exceeded "costs of customary legal advice." *Standard on the Valuation of Properties Affected by Environmental Contamination*, International Association of Assessing Officers, July 2001, pg. 12.

Both parties made expense deductions of 5% for expenses not itemized and 3% for reserves for replacement, resulting in net income of \$266,293.00, as calculated by the Board. Petitioner provided inadequate support for the inclusion of a risk rate of 5.42%, concluding to a capitalization rate well above market at 12.50%. Respondent provided sufficient probative evidence to support a capitalization rate of 8.0%, resulting in a Board calculated value of \$3,328,661.00 combined for the two properties. This recalculated value is below the combined value currently placed on the two properties before the Board.

Based on the evidence and testimony provided, the Board concludes that the subject property was incorrectly valued for tax year 2007. The combined value of Schedule Nos. R1067574 and R1067575 is reduced to \$3,328,661.00.

## **ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2007 combined actual value for Schedule Nos. R1067575 and R1067574 of \$3,328,661.00.

The Broomfield 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 14 day of January 2011.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Sondra W. Mercier*

Sondra W. Mercier

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

*Amy L. Bruins*  
Amy Bruins

