

<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>R E F WEST LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PUEBLO COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 64616</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 29, 2014, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Cynthia Mitchell, Esq. Petitioner is requesting an abatement/refund for tax years 2011 and 2012.

The parties agreed to the admission of all exhibits and to the admission of the expert witnesses.

Subject property is described as follows:

**33163 Braniff Avenue  
Pueblo, Colorado 81001  
Pueblo County Schedule No. 03-300-21-019**

The subject property consists of an industrial warehouse building containing 29,850 square feet. The Class S (Steel) structure was constructed in 1987. The building has a small office area and it is situated on 1.98 acres of land within the Pueblo Memorial Airport Industrial Park.

Petitioner presented the following indicators of value:

Market:	\$200,000
Cost:	\$202,000
Income:	\$283,000

Petitioner's witness Mike Shafer, President of Property Tax Refund Consultants, LLC, presented a limited summary consulting assignment and concluded to a value of \$225,000 for the subject property.

Petitioner's witness presented a market approach containing five comparable sales, four of these being from within the extended base period, ranging in sale price from \$975,000 to \$2,775,000 and in size from 54,820 to 191,905 square feet. After adjustments were made, the sales indicated a range from \$5.90 to \$7.74 per square foot of building area only.

Mr. Shafer adjusted all the sales downward from 5% to 25% for a declining market during the research period. Sales 3 and 5, from locations outside the airport industrial park, were adjusted downward from 25% to 30% for inferior location. All the sales were adjusted downward because they were manufacturing buildings of average to good quality and the subject is a low cost warehouse. Sales 2, 3 and 4 were adjusted downward 10% for size differences ranging from 4 to 6.5 times that of the subject. For each of the sales Mr. Shafer then subtracted the difference between the Assessor's land value for the subject and the land value for each of the comparable sales to determine an adjusted value range of \$5.90 to \$7.74 per square foot of building area for the subject. Application of this unit value resulted in a total value range from \$176,115 to \$231,039 and a value conclusion of \$200,000.

Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$202,000. Mr. Shafer relied upon the published information of the Marshall Valuation Service. The building was classified as a storage warehouse and, using the valuation service data, a replacement cost new (RCN) of \$737,331 was concluded. Mr. Shafer applied a straight line depreciation estimate of 65.71% and an economic obsolescence adjustment of 25% to the physically depreciated structure to determine a RCNLD value of \$189,599. The Assessor's land value of \$12,870 was added to reach a total value conclusion of \$202,000 (rounded).

Petitioner's witness presented an income approach to derive a value of \$283,000 for the subject property. Mr. Shafer applied a NNN rental rate of \$2.40 to the building. Vacancy and collection loss of 35% were reduced from the potential income. An adjustment of 15% was taken from the collected gross income to determine net operating income of \$39,581. The income was capitalized at a 14% overall rate resulting in a conclusion of \$283,000 (rounded) for the subject by use of the income approach.

Petitioner is requesting a 2011 and 2012 actual value of \$225,000 for the subject property.

Respondent presented the following indicators of value:

Market:	\$618,000
Cost:	\$600,556
Income:	Not Applied

Respondent's witness Valerie L. Hays, a certified residential appraiser, presented three comparable sales and a value by the market approach but declined to place any reliance upon this approach in testimony.

Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$600,556.

Ms. Hays presented a cost approach to derive a market-adjusted cost value for the subject property of \$600,556. Ms. Hays also relied upon the published information of the Marshall Valuation Service. The building was classified as a light industrial manufacturing building and, using the valuation service data, an estimate RCN of \$1,032,213 was concluded. Ms. Hays applied an age/life depreciation estimate of 48% to determine a RCNLD value of \$587,686. The Assessor's land value of \$12,870 was added to reach a total value conclusion of \$600,556.

Respondent assigned an actual value of \$600,556 to the subject property for tax years 2011 and 2012.

Petitioner contends the property is not correctly classified which has resulted in an overvaluation. Petitioner asserts the market for property in the Airport Industrial Park lags the rest of Pueblo and there are numerous buildings that are vacant and underutilized. Pueblo has not enjoyed the economic revival of the rest of the State and continues to suffer reduced property values and a stagnant market.

Respondent contends the property is correctly classified because the building is in use for the manufacture of specially sized bricks. The building contains a 900 square foot machine capable of producing up to 30 tons of materials and the building's slab foundation, at eighteen inches, exceeds the quality that would be found in a storage warehouse.

The Board finds the primary area of disagreement is over the classification of the building. From testimony presented and observation of the exhibits it is clear to the Board that the building does not meet the requirements needed for manufacturing. The building is visibly not substantial. There is no evidence, other than the presence of a machine that is personal property and a purported eighteen inch slab, suggesting the structure meets the requirements of a light industrial manufacturing building.

The Board placed no confidence in the value conclusions presented by Petitioner's witness. Mr. Shafer's market approach relied upon significant downward adjustments to all the sales resulting, in one sale, in a total adjustment of 95.5% of the sale price. The Board also questions the adjustment process whereby Mr. Shafer applied market based adjustments for property differences to reach a unit value for the land and improvements. After determining a unit value in this manner Mr. Shafer then applied a reduction for land value based upon the Assessor's mass appraisal analysis. By mixing the different valuation approaches Mr. Shafer has produced a misleading conclusion. This is illustrated by comparison of Sale 1, an 8.85 acre parcel that was adjusted downward \$40,000 and Sale 4, a 35.67 acre parcel that was adjusted downward \$30,000. This is not logical and results in an unsupportable conclusion. Mr. Shafer's cost approach involved a 25% economic obsolescence

economic obsolescence adjustment based upon his opinion and further supported only by an article on local residential values from 2011 and an article on the national economy that was published in 2008. Finally, Mr. Shafer applied an income approach to which he testified there were no leased rates found during the study period again leaving the Board with no support other than the opinion of the witness.

After careful consideration of the testimony and evidence presented at the hearing, the Board turned its attention to the cost approach as the only method relied upon by both parties.

The Board agrees with Petitioner regarding the structure and has therefore chosen to focus on the building quality as presented by Petitioner. Based upon that information the RCN is \$737,331. Depreciation, estimated on an age/life basis, of 48%, results in a RCNLD of \$383,412. Using the Assessor's land value of \$12,870 in the same manner as both parties produces a final value opinion of \$396,282.

Sufficient probative evidence and testimony was presented to the Board to prove that the tax year 2011 and 2012 valuation of the subject property was incorrect.

The Board concludes that the 2011 and 2012 actual value of the subject property should be reduced to \$396,282.

**ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2011 and 2012 actual value for the subject property of \$396,282.

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-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).

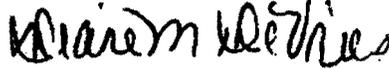
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 12th day of November, 2014.

**BOARD OF ASSESSMENT APPEALS**



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Diane M. DeVries



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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.

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Milla Lishchuk

