

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SEASONS 52,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 69123</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 31, 2017, Gregg Near and MaryKay Kelley presiding. Petitioner was represented by William E. Sparks, Esq. Respondent was represented by Dawn Johnson, Esq. Petitioner is protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**Personal Property
Located at Seasons 52 Restaurant
8325 Park Meadows Center Dr., Lone Tree, Colorado
Douglas County Schedule No. P0511228**

The subject of this appeal is personal property that includes furnishings, fixtures, equipment and leasehold improvements used in the operation of Seasons 52 Restaurant.

Respondent assigned an actual value of \$607,240 for the subject property for tax year 2016, which is supported by an appraised value of \$755,993. Petitioner is requesting a value of \$400,289.

Petitioner’s witness, Jack E. West, Accredited Senior Appraiser (ASA) with Property Valuation and Consulting, Inc., presented a list of Petitioner’s reported acquisition costs for equipment purchased from 2014 to 2015. He determined a total cost new, including freight, installation, and sales tax, of \$741,913. He concluded to a total economic life of ten years, an effective life of two years, and a percent good ranging from 75% to 80%.

Mr. West then considered economic obsolescence, which he defined as a loss in value due to

external forces. He compared declared cost new of the assets with listings and sales of automobiles and similar restaurant equipment on the open market. Mr. West testified to market research including dealer comments, interviews and site visits with dealers in Florida, Georgia and Nebraska; a historical depreciation chart from 2003-2009; Point of Sale (POS) equipment; and an interview with a furniture and office equipment dealer. The witness concluded to a total depreciation of 53% from replacement cost new of \$754,057 and determined a final value by the cost analysis of \$400,289.

Petitioner's witness, Ms. Tammy Blackburn, Accredited Senior Appraiser (ASA), Machinery and Technical Specialties with For What It's Worth Appraisals, Inc., presented a Supermarket Valuation Model for tax year 2016 as a test of reasonableness for economic depreciation. She argued that equipment sells within a national market and that depreciation is the same in the Florida/Georgia market, where the bulk of her data originated, as in Colorado. She identified three "Levels of Trade" defined as: 1) owner sells used equipment at liquidation value; 2) liquidation buyer sells the equipment at auction (also defined as liquidation value); 3) one of the auction purchasers sells the property purchased at the second liquidation value to an end user in the market place defined as market value. The market value is further defined as a market-derived "percent of cost" that measures all forms of depreciation including physical, functional and economic obsolescence. The "percent of cost" is then applied to cost new of the asset as a method of determining market value by use of the Cost Approach. Ms. Blackburn identified the subject property as the Tangible Personal Property for the supermarket asset class and then identified the Normal Useful Life (NUL) for the subject personal property as ranging from 3 years to 15 years.

The witness testified that restaurant equipment and supermarket equipment were similar and interchangeable for purposes of valuation. Her model was developed to calculate market value to measure total depreciation (including physical, functional, and economic) using data from the retail or "secondary" market. Applying "the percent of cost" method, Ms. Blackburn measured a ratio of selling price on the secondary market to the cost of the same asset as new. Freight was considered for consistency in development of the ratios. Two sources of data were considered; sales and offerings of used equipment and dealer interviews. The collected data was classified into the Normal Useful Life (NUL) categories based on similarities in asset characteristics and behavior in the secondary market. The ratios were then used to calculate total depreciation by category, which was then used to determine the Percent Remaining Value (PRV).

Respondent's witness, Jennifer Houchins, Appraiser for the Douglas County Assessor's Office, presented a Cost Approach using declared assets (including freight, installation, and sales tax). Using Division of Property Taxation (DPT) tables and equipment categories, she determined a total economic life of ten years and a percent good of 84% for a value conclusion of \$755,993. Ms. Houchins considered but did not apply economic depreciation. She consulted the Colorado Restaurant Association Industry Statistics, Douglas County 4th Quarter Economic Development Report, and Darden's Annual Reports for 2015 and 2016 and concluded that insufficient support existed for a deduction for economic depreciation.

The parties presented cost analyses using the same taxpayer-reported assets and their cost new and arrived at similar replacement costs minus physical depreciation (\$741,913 by Petitioner

and \$755,993 by Respondent). Petitioner, in addition, applied economic obsolescence to conclude to a value of \$400,289.

The Board is not convinced that economic obsolescence exists in the restaurant equipment market. While Petitioner's witnesses argue that the market is national, their research occurred predominantly in the Florida/Georgia market with only a few examples from Colorado. Insufficient comparison was presented to convince the Board that prices, as well as depreciation, are similar throughout the country. Additionally, some of the eBay listings and sales presented by Petitioner did not include freight, which could skew the analysis. While an additional deduction for economic obsolescence must be and was considered, Petitioner failed to convince the Board that such a deduction was necessary or appropriate in this case.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2016.

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 of the respondent county, 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).

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 within thirty days of such decision 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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

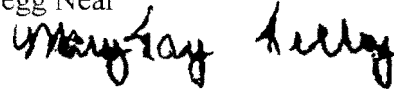
Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of June, 2017.

BOARD OF ASSESSMENT APPEALS

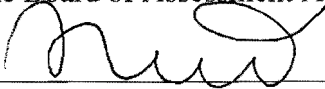


Gregg Near



MaryKay Kelley

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



Milla Lishchuk

