

Moffat County Board of County Commissioners
221 W Victory Way Suite 130 Craig, CO 81625

March 10, 2020

County Board of Equalization Hearing

In attendance: Ray Beck, Chairman; Donald Broom, Vice Chair; Don Cook, Board Member; Erin Miller, Moffat County (Deputy) Clerk & Recorder; Chuck Cobb, Moffat County Assessor; Rebecca Tyree, Moffat County Attorney; Loy Jones, Assessor's Office; John Zimmerman, Value West, Inc.; Shauana Merrill, paralegal/timekeeper

Call to Order
Pledge

Commissioner Beck explained the Board of Equalization process. The Board appreciates both parties for participating in this process. Our goal is to come to a fair conclusion of value with regard to this property. We would like to have a valuation that is fair for the taxpayer as well as fair for the other taxpayers in the county. In order to do this, we will hear first from the taxpayer and then from the County Assessor. Both parties will be sworn in. Each will be given 10 minutes for initial comments. Please do not interrupt each other during this period. Persons in the meeting room should not react to statements being made in an auditory or physical manner. After your initial 10 minutes, each board member will have an opportunity to ask questions. After a brief question period, you will be given an additional 5 minutes of rebuttal and conclusion time. As time allows, the Board may ask additional questions at the end of the meeting. Total time allotment for each hearing is not to exceed 15 minutes. We will then make one of the following decisions: Deny, Adjust, or Continue. We may also give other specific instructions to the Assessor with regard to the subject property.

1:30-2:30 pm - : Walmart - R011298
(Robert Hill, representative for Walmart phoned in)

Mr. Hill was sworn in by Commissioner Beck. Hill explained that in the last 5-10 years, big box retail stores have all undergone a loss in business, therefore making the building not worth as much to a second generation buyer. Walmart is hoping to get a dialog going with the Assessor's Office

John Zimmerman was sworn in. The 2017 Abatement Petition was initially addressed. This petition was deemed as not a valid petition, because the subject property was protested during 2017, filed by Louis Newman (a legal contractor that no longer works for Walmart). Zimmerman passed out a copy of the petition. Mr. Hill stated that he would withdraw the 2017 petition. Zimmerman stated that Mr. Newman agreed to the value that was set by the County when this protest was put forth in 2017; by inference, since the

2018 value was the same, Zimmerman asked the BOCC if they would ask Hill to withdraw the 2018 protest. Hill stated that, at this time, they would not withdraw the 2018 protest because Walmart wants to start a dialog with the Assessor's Office for abatement.

Zimmerman went on to testify that the 2017 and the 2018 valuations are based on a June 30, 2016 valuation. The value, as determined by the Assessor's Office was \$8,241,969.

Taxpayers who protest property tax assessments have the burden of proving that the assessment is incorrect. The petitioner provided no evidence to support a lower valuation for the subject property. There were two exhibits provided by the petitioner: 1) A table that identified the property with the parcel number and a few descriptive bits of information about the property, along with requested value. 2) An apparent presentation from a conference which broadly presents vague information about the "Big Box Valuation Realities". Neither of these exhibits offers any information about the subject property and it falls far short of meeting any burden of proof requirements as required by law. The Assessor's Office reviewed the valuation of the subject property, despite the weakness of the abatement petition, and determined that the value is fair and equitable and is appropriate for the subject property, as of June 30, 2016 appraisal date.

Here are some key points to illustrate that this tax agent has not met the burden of proof required:

1. There is zero property specific evidence provided
2. The presentation submitted as support for the petition has no geographic information
3. The presentation submitted cites sources from after the allowable appraisal date of June 30, 2016
4. The agent supplies no support for the value being requested
5. The owner of this property protested the valuation of this property in 2017 and did not appeal the Assessor's valuation after the protest was denied

Zimmerman (and the Assessor's Office) recommended that the CBOE deny this abatement petition immediately.

Hill tried to make his point by comparing the value of the Walmart in Moffat County to the value of other properties in larger areas on the Front Range. He questioned that the price per square foot to build a new building (\$30-\$40/square foot) is less than it would be to sell the current building with the current tax value (\$80/square foot).

Zimmerman emphasized that the Walmart in Moffat County was not comparable to any of the other Walmart stores on the Front Range. They have no competition; there is no danger of this store closing.

The board did not have to make a decision today; they can take all this information under advisement and make a decision in the future.

In regular session, Commissioner Cook made a motion to deny Walmart's abatement petition for 2018. Commissioner Broom seconded. Motion carried 3-0. Mr. Hill was informed that the County would respond to Walmart in writing.

Meeting Adjourned

2:10 pm

Submitted by: Erin Miller, (Deputy) Clerk & Recorder

Approved by: Ray Beck

Broom

Approved on: March 17, 2020

Attest by: Erin Miller



Abatement Response
Moffat County Assessor's Office
3/10/2020

RE: WAL-MART REAL ESTATE BUSINESS TRUST

Parcel: 0855-021-00-027

Account Number: R011298

Response:

This is the Wal- Mart located at 2000 W Victory Way in Craig Colorado .

According to Moffat County records, the land is approximately 16.345 Acres and the building is 105,695 square feet. The building is in typical condition for its age and the quality is consistent with construction for a "Discount Retailer" during the vintage of the building which is 2007. The effective year built is also 2007 based on good upkeep and property management practices. The valuation was protested by Louis Newman of Wal-Mart in 2017 rendering the 2017 abatement petition as invalid. The 2018 petition is valid and is up for consideration by the County Board of Commissioners.

The current value is based on the June 30, 2016 level of value as determined by in the 2017 reappraisal. According to Colorado law, only data from prior to June 30, 2016 can be considered in valuation and abatement decisions.

In 2017 and 2018 the Assessor's valuation was based on the Appraisal Date of 6/30/2016. The value, as determined by the Assessor's office was \$8,241,969.

In late December of 2019 Moffat County received an abatement petition from a tax agent/lawyer located in Minnesota. The Abatement form was accompanied by a "letter of authorization" from the corporate office of Wal-Mart in Bentonville, Arkansas.

The Assessor's office reviewed the petition as well as the 2017 and 2018 taxable values on the property and makes the following recommendations:

The Moffat County Assessor's Office recommends that the Moffat County Commissioners "DENY" the 2018 Abatement Petition filed on the subject property.

Reasoning:

Taxpayers who protest property tax assessments have the burden of proving that the assessment is incorrect. 501 So. Cherry J. Venture v. Arapahoe Cty, 817 P.2d 583 (Colo. App. 1991)

The petitioner provided no evidence to support a lower valuation for the subject property. There were two exhibits provided by the petitioner. 1. A table that identified the property with the parcel number and a few descriptive bits of information about the subject property along with the requested value. 2. An apparent presentation from a conference which broadly presents vague information about the "Big Box Valuation Realities". Neither of these exhibits offers any information about the subject property and it falls far short of meeting any burden of proof requirement as required by law.

The Assessor's office reviewed the valuation of the subject property despite the weakness of the abatement petition and determined that the value is fair and equitable and is appropriate for the subject property as of the June 30, 2016 appraisal date.

Here are some key points to illustrate that this tax agent has not met the burden of proof required:

1. There is ZERO property specific evidence provided.
2. The presentation submitted as support for the petition has NO GEOGRAPHIC INFORMATION.
3. The presentation submitted cites sources from after the allowable appraisal date of June 30, 2016.
4. The agent supplies NO support for the value being requested.
5. The owner of this property protested the valuation of this property in 2017 and did not appeal the Assessor's valuation after the protest was denied.

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: Moffat

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: December 26, 2019
Month Day Year

Petitioner's Name: Walmart Inc / Sams Inc

Petitioner's Mailing Address: 702 SW 8th Street

Bentonville AR 72716
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S)	PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
<u>See Attached Exhibit A</u>	<u>See Attached Exhibit A</u>

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year 2018 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.)

As the attached independent analysis confirms, the sale prices of mega-big box stores reflect steep declines off of cost due to a rapidly changing climate for "walk-in" customers in the age of on-line retailing. Petitioner believes that its market value for its stores in Colorado should reflect the sales prices it has obtained and others have as well in Colorado. See attached analysis at p. 29.

Petitioner's estimate of value: \$ 3,984,440 (2018)
Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information, and belief, is true, correct, and complete.

Petitioner's Signature Daytime Phone Number (_____) _____

By /s/ Robert A. Hill Daytime Phone Number (952) 426-7373
Agent's Signature*

*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: Assessor's Recommendation (For Assessor's Use Only)		
Tax Year _____		
Actual	Assessed	Tax
Original	_____	_____
Corrected	_____	_____
Abate/Refund	_____	_____
<input type="checkbox"/> Assessor recommends approval as outlined above.		
If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.		
Tax year: _____ Protest? <input type="checkbox"/> No <input type="checkbox"/> Yes (If a protest was filed, please attach a copy of the NOD.)		
<input type="checkbox"/> Assessor recommends denial for the following reason(s):		

Assessor's or Deputy Assessor's Signature		

