

<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>DEL MESA FARMS,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>MONTROSE COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq. Address: 3962 S. Olive Street Denver, Colorado 80237 Phone Number: (303) 759-0387 Attorney Reg. No.: 6941</p>	<p><b>Docket Number: 42035</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 9, 2004, Rebecca Hawkins and Karen E. Hart presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Robert J. Hill, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Montrose County Schedule Nos. R0011204, R0011206, R0011259, R0011313, R0011728, R0006545, R0009072**

Petitioner is protesting the 2003 actual value of the subject property, a confinement poultry operation consisting of 56 poultry buildings, configured as eight buildings on each of the seven parcels.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that both parties have the same Marshall & Swift (M & S) starting point in the cost approach. Differences are in the perimeter adjustment, remaining life, and local cost multiplier. Another issue is the inclusion of electrical and plumbing costs in the value. Petitioner removed all electrical and plumbing costs for the poultry buildings, as they are items of personal property necessary for the operation of the poultry business.

### **Respondent:**

Respondent contends that the subject property is correctly valued using the cost approach. The local multiplier they used was determined specifically for Montrose County. The plumbing and electrical services included in the building costs are not personal property; the plumbing and electrical costs are the minimum needed to operate the building.

## **FINDINGS OF FACT:**

1. The subject property consists of seven land parcels with eight poultry buildings located on each of the parcels, for a total of 56 poultry buildings. The buildings are of pole construction and are classified as Marshall & Swift Class D, fair quality buildings. All of the buildings are the same size (16,400 square feet), with actual ages between 13 and 15 years. The buildings are used as floor operation poultry breeder houses for egg production.

2. Respondent's values placed on the land, residences, and all other improvements are not in dispute. Only the poultry buildings' values are the subject of this appeal. Respondent assigned an actual value of \$270,000.00 per building for tax year 2003; Petitioner is requesting a value of \$179,120.00 per building.

3. Petitioner's witness, Mr. Ronald C. Sandstrom of F & S Tax Consultants, presented the following indicators of value for the subject property:

Land:	\$ 149,460.00
Residences:	\$ 703,990.00
Poultry Buildings:	\$1,253,840.00
Other Improvements:	<u>\$ 115,230.00</u>
<b>Total Value</b>	<b>\$2,222,520.00</b>

4. Mr. Sandstrom testified that M & S cost service recommends a 15-year life for poultry buildings such as the subject. The primary differences between his and Respondent's cost calculations are the perimeter adjustment, local cost multiplier, estimated remaining life, and the inclusion of electrical and plumbing costs in the building value. Mr. Sandstrom used a 900-foot perimeter measurement, with an interpolated perimeter adjustment of 0.9246. He used the same

height multiplier and current cost multiplier as Respondent. He made negative adjustments for electrical and plumbing costs of \$0.2650 and \$0.1550 per square foot respectively. He used the published M & S cost multiplier for Montrose County of 0.91.

5. Mr. Sandstrom believes the buildings should have a 15- year life, with an effective life of 13 years, leaving a 2- year remaining life as of the level of value date of June 30, 2002.

6. The plumbing is used to supply water to the birds for drinking, water to the curtains to cool the air and to clean the buildings when moving the flocks; it is used to regulate the environment for the chickens. The electrical supply is used for the heaters, fans, conveyor system for feeding and egg removal and lighting, which is used to regulate the amount of daylight for optimum daily egg production.

7. In cross-examination, Mr. Sandstrom testified that M & S includes plumbing and electrical costs. He has interpolated to determine a fair cost. He has removed electrical and plumbing from the building. The plumbing is used to wash down the poultry equipment and is not used for other equipment washing. Outdoor spigots are used to wash down the slats. Maintenance cannot be performed when a flock is in a building. He understands that the flock is changed once a year; therefore, maintenance is performed once a year.

8. Petitioner's witness, Mr. David Brennan, General Manager of Del Mesa Farms in both Montrose and Delta counties, testified that they produce hatching eggs. The eggs must be fertile, which is why they do not have cages; the roosters need access to the hens. There are seven breeder operations in Montrose County. There are 8,500 birds in the flock, including males.

9. The photos contained in Petitioner's Exhibit A accurately represent the structural issues they must deal with at the farm. The fact that they are pole buildings with no foundations causes a lot of movement and cracking in the roof trusses, 4 x 4 sidewalls and concrete. Structural repair is difficult once slats are in place in the poultry house. Therefore, cleaning and repair must wait until the flock has been removed. They must trick the birds into thinking it is spring through lighting, temperature, and feed. If the birds see natural sunlight and that the days are getting shorter, they will go out of production.

10. In cross-examination, Mr. Brennan testified that the buildings' actual ages are between 13 and 15 years. With no maintenance, the remaining life of all of the buildings would be the same, as all of the buildings are pole buildings. None of the buildings are scheduled for replacement.

11. Petitioner is requesting a 2003 actual value of \$1,300,000.00 for the subject property.

12. Respondent's witness, Mr. Harry L. Percival, a Certified Residential Appraiser with the Montrose County Assessor's Office, presented the following indicators of value:

Land:	\$ 149,460.00
Residences:	\$ 703,990.00
Poultry Buildings:	\$1,890,000.00
Other Improvements:	<u>\$ 115,230.00</u>
<b>Total Value</b>	<b>\$2,858,680.00</b>

13. Mr. Percival testified that he used an effective age of 15 years for the poultry buildings. He assumed that all of the buildings would be replaced at the same time. He admitted that Petitioner's perimeter adjustment is more accurate than his. The west slope multiplier he used came from M & S, based on local costs submitted to M & S; his multiplier is more correct than Petitioner's.

14. Regarding the plumbing and electrical deduction, there is minimum wiring and lighting and water service. What is listed on page C-1 of Respondent's Exhibit 1 is the minimum wiring, lighting and water service required regardless of its use. It is what is required for the property to be a functioning building. All electrical and plumbing is not personal property; it is not all related to the business. One way to distinguish fixtures and personal property is that those items that would remain in a building at the change of a tenant would be fixtures. He has valued the connections necessary for the minimal functioning of the building. He considers plumbing and electrical systems to be those things that are necessary to make the minimal services become operable as a poultry operation. It would not include the services to the building.

15. Regarding depreciation, as of January 1, 2003, the subject buildings are already 15 years old. They are fully functional; there is nothing major that will prevent them from continuing to operate. Mr. Percival is aware that M & S uses a 15-year life but that is a nationwide life including other parts of the country. He estimated that the Colorado operations have a 5-year remaining life. He could also use an effective life of 10 years. Instead he chose to use an actual age of 15 years with a 5-year remaining life on a 20-year total life. This is an appraiser's call based on experience.

16. He admits there is some warpage; the buildings are huge and lightly constructed and some warping, twisting, and bowing is to be expected. Everything shown in the pictures could be easily repaired; nothing appears to jeopardize the structural integrity. The buildings are not at the end of their life, they should last a minimum of 5 years if not more, which he believes is supported by Petitioner's witness, Mr. Brennan, who testified that they have no plans to replace the buildings.

17. Mr. Percival is valuing only minimal electrical service, not the service as shown in photo 0020 of Petitioner's Exhibit A, some of which is mounted on a concrete pad that is not even connected to the building. Petitioner intentionally removed the concrete runners as they were only necessary to set the slats on and they could not remove the waste with the runners in place.

18. Respondent's witness, Mr. Brad Hughes, Chief Deputy Assessor of Montrose County,

testified that Respondent's Exhibit 2 consists of five letters from M & S after his submission of a local cost form. Page R-2 consists of local wages and costs as of June 30, 2002 and indicates a local cost multiplier of .94 for a Class D building. The letters are based on information provided by him personally to M & S to calculate the local multipliers. The date on the letter is when it was sent to him, but the information it contains was as of June 30, 2002.

19. Respondent assigned an actual value of \$2,858,680.00 to the subject property for tax year 2003 as follows:

Land:	\$ 149,460.00
Residences:	\$ 703,990.00
Poultry Buildings:	\$1,890,000.00
Other Improvements:	<u>\$ 115,230.00</u>
<b>Total Value</b>	<b>\$2,858,680.00</b>

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2003.

2. Due to the unique nature of the subject property, neither party presented market or income approaches to value. Only the cost approach was presented.

3. Both parties agreed on M & S cost manual adjustment factors to the base price except for the perimeter adjustment and the local cost multiplier. The Board was convinced that Petitioner's perimeter adjustment factor of .9246 was more accurate, as admitted by Respondent's witness, Mr. Percival. The Board was convinced that Respondent's local cost multiplier of .94 was more accurate, as it was developed using local costs submitted to M & S, as shown in Respondent's Exhibit 2.

4. Another point of disagreement was the effective and remaining life of the poultry buildings. The Board was convinced that the expected life of the buildings should be 15 years, as determined in the M & S depreciation section. However, the Board believes that the remaining life of the buildings should be five years, as Mr. Percival testified. We believe this remaining life is supported by Mr. Brennan's testimony that there are no plans to replace the buildings in the near future, which contradicts Mr. Sandstrom's contention that the buildings only have a remaining life of two years. If that were so, we believe plans would be underway to replace the buildings. The buildings undergo a regular maintenance cycle and it is reasonable to expect them to be functional for a minimum of five years in the future. A 15-year expected life with an effective age of 10 years results in a depreciation factor of 57 percent.

5. The final issue remaining is whether reductions should be made for plumbing and electrical services that are included in Respondent's cost figures.

6. The Board was not persuaded that the electrical and plumbing costs included in Respondent's replacement cost value should be removed. We believe that basic, minimal electrical and plumbing services are building components that are required for the proper operation of the improvements, regardless of their current use. There is no basis for the Board to consider these to be fixtures that are tied primarily to the business operation. Basic electrical and plumbing components are contributory to the operation of the building, not the business. We believe they would be necessary to the operation of the subject buildings, even after the cessation of the poultry business.

7. The Board calculated a cost approach for the poultry buildings using the aforementioned perimeter, local cost, and depreciation factors and concluded to a replacement cost new less depreciation value of \$41,328.00 per poultry building, a higher value than that assigned by Respondent at \$33,750.00 per building.

8. After careful consideration of all the testimony and evidence presented, the Board affirms the assigned value of the subject properties.

**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 9<sup>th</sup> day of July, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca A. Hawkins

*Karen E Hart*

Karen E. Hart

This decision was put on the record

JUL 09 2004

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

*Penny S. Lowenthal*  
Penny S. Lowenthal

